



111542

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CAMDEN VICINAGE

ROLLINS ENVIRONMENTAL SERVICES
(NJ) INC., et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,
et al.,

Defendants.

Civil Action No.
92-1253 (SSB)

THE UNITED STATES OF AMERICA,

Plaintiff,

STATE OF NEW JERSEY,

Plaintiff-Intervenor,

v.

ALLIEDSIGNAL, INC.,
et al.,

Defendants.

Civil Action No.
92-2726 (SSB)

CONSENT DECREE

TABLE OF CONTENTS

I. <u>BACKGROUND</u>	1
II. <u>JURISDICTION</u>	4
III. <u>PARTIES BOUND</u>	4
IV. <u>DEFINITIONS</u>	5
V. <u>GENERAL PROVISIONS</u>	13
VI. <u>SETTLING DEFENDANTS' REIMBURSEMENT OF REMOVAL COSTS AND LAGOON WORK COSTS</u>	16
VII. <u>PERFORMANCE OF PHASE 2 REMEDIAL INVESTIGATION AND FEASIBILITY STUDY</u>	17
VIII. <u>PERFORMANCE OF THE GROUNDWATER WORK</u>	24
IX. <u>PERFORMANCE OF THE WETLANDS WORK</u>	44
X. <u>QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS</u>	60
XI. <u>ACCESS AND INSTITUTIONAL CONTROLS</u>	62
XII. <u>REPORTING REQUIREMENTS</u>	66
XIII. <u>EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS</u>	73
XIV. <u>PROJECT COORDINATORS</u>	75
XV. <u>ASSURANCE OF ABILITY TO COMPLETE WORK</u>	76
XVI. <u>CERTIFICATION OF COMPLETION</u>	80
XVII. <u>EMERGENCY RESPONSE</u>	86
XVIII. <u>REIMBURSEMENT OF FUTURE RESPONSE COSTS</u>	87
XIX. <u>INDEMNIFICATION AND INSURANCE</u>	90
XX. <u>FORCE MAJEURE</u>	92
XXI. <u>DISPUTE RESOLUTION</u>	95
XXII. <u>STIPULATED PENALTIES</u>	99

XXIII. <u>COVENANTS NOT TO SUE BY THE UNITED STATES AND THE STATE</u>	106
XXIV. <u>COVENANTS BY SETTLING DEFENDANTS</u>	113
XXV. <u>EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION</u>	115
XXVI. <u>ACCESS TO INFORMATION</u>	117
XXVII. <u>RETENTION OF RECORDS</u>	118
XXVIII. <u>NOTICES AND SUBMISSIONS</u>	119
XXIX. <u>PAYMENTS BY SETTLING FEDERAL AGENCIES</u>	122
XXX. <u>STATE AGENCIES' SETTLEMENT</u>	135
XXXI. <u>EFFECTIVE DATE</u>	138
XXXII. <u>RETENTION OF JURISDICTION</u>	138
XXXIII. <u>APPENDICES</u>	139
XXXIV. <u>COMMUNITY RELATIONS</u>	139
XXXV. <u>MODIFICATION</u>	140
XXXVI. <u>LODGING AND OPPORTUNITY FOR PUBLIC COMMENT</u>	140
XXXVII. <u>SIGNATORIES/SERVICE</u>	141

I. BACKGROUND

A. The Bridgeport Rental and Oil Services Superfund Site ("Site," as defined below) is a 30-acre facility located on Cedar Swamp Road in Logan Township, Gloucester County, New Jersey and owned by Bridgeport Rental and Oil Services, Inc. At various times, the current and previous owners and operators used the Site for several purposes, including waste oil reprocessing, waste disposal, and waste storage.

B. In 1981, the United States Environmental Protection Agency ("EPA," as defined below) initiated a series of response actions to address contamination at the Site. These response actions included pumping down the contents of an on-Site lagoon, construction of a fence and a mobile carbon filtration treatment system, and treatment and disposal of certain lagoon contents.

C. Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, 48 Fed. Reg. 40,658.

D. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, pursuant to 40 C.F.R. § 300.430, EPA also commenced a Remedial Investigation and Feasibility Study ("RI/FS") to characterize the nature and scope of contamination at the Site and to identify remedial alternatives to address the contamination.

E. The RI/FS identified several sources of contamination and various contaminated areas, and as a result, on December 31, 1984, EPA issued a Record of Decision ("the 1984 ROD") which generally called for remediation in four components: (1) installation of a water supply pipeline and individual residential extensions to replace contaminated private water supplies near the Site; (2) dismantling of the tank farm and disposal of contaminated tank wastes; (3) excavation and on-Site incineration of contaminated lagoon sediments; and, (4) performance of a Phase 2 RI/FS to address contaminated groundwater at and emanating from the Site.

F. In 1989, EPA received an administrative petition seeking reconsideration of the incineration remedy selected for contaminated lagoon sediments in the 1984 ROD; EPA denied the petition on June 18, 1991.

G. EPA, through the use of money from the Hazardous Substance Superfund and money from the State of New Jersey pursuant to a Superfund State Contract, has been implementing the remedy identified in the 1984 ROD.

H. EPA has commenced the Phase 2 RI/FS to address groundwater and possible wetlands contamination at the Site. Pursuant to this Consent Decree, the Settling Defendants shall complete the Phase 2 RI/FS under the direction of EPA.

I. On March 20, 1992, thirteen private parties filed suit (Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., Civ. Action No. 92-1253) ("Rollins") against the United States, the U.S. Department of Defense and certain of its named departments and agencies, (including the Defense Logistics Agency, and the Departments of the Army, Air Force, and Navy), and certain private parties and individuals under Sections 107(a) and 113(f) of CERCLA, 42 U.S.C. §§ 9607 and 9613(f).

J. The United States of America, on behalf of EPA, filed a complaint on June 30, 1992 and an amended complaint on November 30, 1992 pursuant to Sections 107 and 113(g)(2) of CERCLA against the defendants in United States v. AlliedSignal Inc., et al., Civ. Action No. 92-2726 ("AlliedSignal"). On October 2, 1992, the Court consolidated the AlliedSignal and Rollins cases.

K. On January 15, 1993, the Rollins plaintiffs filed a First Amended Complaint naming the U.S. Coast Guard and the U.S. Department of Transportation and certain private entities as additional defendants.

L. On March 31, 1993, the State of New Jersey, Department of Environmental Protection ("NJDEP," as defined below) intervened in the AlliedSignal action as a plaintiff and filed a

complaint in intervention pursuant to Sections 107 and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607, 9613(g)(2), and under the New Jersey Spill Compensation and Control Act ("the Spill Act"), N.J.S.A. 58:10-23.11 et seq., specifically N.J.S.A. 58:10-23.11f and g, against the AlliedSignal defendants. In May 1993, the AlliedSignal defendants counter-claimed against NJDEP and further asserted claims against the New Jersey Department of Military and Veterans' Affairs and the New Jersey Department of Transportation.

M. By a Court Order on Consent, filed simultaneously with the lodging of this Consent Decree, a number of private parties are intervening in the AlliedSignal action as defendants for purposes of participating in this Consent Decree.

N. The United States ("United States," as defined below), the State of New Jersey ("the State," as defined below), and Settling Defendants (as defined below) do not admit any liability arising out of the transactions or occurrences alleged in any of the complaints or counterclaims asserted in these actions, whether to each other or to any other party; nor do Settling Defendants acknowledge that the release or threatened release of hazardous substance(s) at or from the Site constitutes an imminent or substantial endangerment to the public health or welfare or the environment.

O. Solely for the purposes of Section 113(j) of CERCLA, 42 U.S.C. § 9613(j), the remedial actions to be performed by the Settling Defendants pursuant to this Consent Decree shall constitute response actions taken or ordered by the President.

P. EPA has determined that extraordinary circumstances within the meaning of Section 122(f)(6)(B) of CERCLA, 42 U.S.C. § 9622(f)(6)(B), exist which warrant limiting the United States' reserved rights to sue Settling Defendants as provided in Paragraphs 126 and 127. In making this determination, EPA has assessed the appropriateness of the covenant not to sue and the limitations thereon as provided by this Consent Decree in light of the factors enumerated in Section 122(f)(4) and (f)(6)(B) of CERCLA, 42 U.S.C. § 9622(f)(4) and (f)(6)(B).

Q. The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that implementation of this Consent Decree will expedite the cleanup of the Site and will avoid continued, prolonged and complicated litigation among the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW THEREFORE, it is hereby ordered, adjudged, and decreed:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9606, 9607, 9613(b). This Court also has personal jurisdiction over the United States, the State, and Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendants, the United States and the State waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants and Settling State Agencies shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter this Consent Decree. Settling Defendants, the United States, and the State shall not challenge this Court's jurisdiction to enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree applies to and is binding upon the United States, the State, Settling Defendants, and their successors and assigns. Any change in ownership or corporate status of a Settling Defendant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter such Settling Defendant's responsibilities under this Consent Decree.

3. Settling Defendants shall provide a copy of this Consent Decree to each contractor hired to perform the Phase 2 RI/FS, Groundwater Work (as defined in Section IV below), and the Wetlands Work (as defined in Section IV below) required by this Consent Decree. Settling Defendants shall provide a copy of this Consent Decree to each person representing any Settling Defendant with respect to the Site or the Groundwater Work or the Wetlands Work, and shall

condition all contracts entered into hereunder upon performance of the Groundwater Work or the Wetlands Work in conformity with the terms of this Consent Decree. Settling Defendants or their contractors shall provide written notice of the Consent Decree to all subcontractors hired to perform any portion of the Groundwater Work or the Wetlands Work required by this Consent Decree. Settling Defendants shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Groundwater Work and the Wetlands Work provided for herein and in future documents in accordance with this Consent Decree. With regard to the activities undertaken pursuant to this Consent Decree, each such contractor and subcontractor shall be deemed to be in a contractual relationship with the Settling Defendants within the meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).

IV. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Decree which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

"Allowable Costs" shall mean the costs set forth in Appendix G. "Allowable Phase 2 RI/FS Costs," "Allowable Groundwater Costs," and "Allowable Wetlands Costs" refer to the categories of Allowable Costs set forth in Appendix G.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

"Consent Decree" shall mean this Decree and all appendices attached hereto (listed in Section XXXIII). In the event of conflict between this Decree and any appendix, this Decree shall control.

"Day" shall mean a calendar day unless expressly stated to be a working day.

"Working day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

"Future Operable Units" shall mean all response actions undertaken at the Site after the effective date of this Consent Decree except (1) the Phase 2 Remedial Investigation and Feasibility Study, (2) the Groundwater Work, (3) the Wetlands Work, (4) response actions, the costs of which are reimbursable pursuant to Section XVIII (Reimbursement of Future Response Costs), and (5) Lagoon Work.

"Future Response Costs" shall mean all costs, including direct and indirect costs, that the United States (not including the Settling Federal Agencies) incurs after the effective date of this Consent Decree for performance of response actions, including any related enforcement actions, under Section XI (Access and Institutional Controls), Section XVII (Emergency Response), sub-Paragraphs 11.f, 19.f and 41.f, or Paragraph 130 (Work Takeover), or for enforcement of the terms of this Consent Decree.

"Groundwater Funding Amount" shall mean the sum of (a) \$85 million plus (b) \$16 million plus (c) Time Value Adjustments based on the initial amount of \$16 million. For purposes of Section VIII of this Consent Decree, Settling Defendants shall be deemed to have incurred costs equalling the Groundwater Funding Amount when Settling Defendants have first expended \$85 million, followed by \$16 million plus Time Value Adjustments calculated on the initial amount of \$16 million in Allowable Groundwater Costs.

"Groundwater Operation and Maintenance" or "Groundwater O & M" shall mean all activities required to maintain the effectiveness of the Groundwater Remedial Action as required

under the Groundwater Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree and the Groundwater SOW.

"Groundwater Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the Groundwater Remedial Action that shall be set forth in the Phase 2 ROD or the Groundwater SOW, as defined below, and any modified standards established by EPA for the Site.

"Groundwater Remedial Action" shall mean those activities, except for Groundwater Operation and Maintenance, to be undertaken to implement the groundwater remedy as selected in the Phase 2 ROD, in accordance with the Groundwater SOW and the final Groundwater Remedial Design and Groundwater Remedial Action Work Plans and other plans approved by EPA.

"Groundwater Remedial Action Work Plan" shall mean the document developed pursuant to Paragraph 25 of this Consent Decree and approved by EPA, and any amendments thereto.

"Groundwater Remedial Design" shall mean those activities to be undertaken to develop the final plans and specifications for the Groundwater Remedial Action pursuant to the Groundwater Remedial Design Work Plan.

"Groundwater Remedial Design Work Plan" shall mean the document developed pursuant to Paragraph 24 of this Consent Decree and approved by EPA, and any amendments thereto.

"Groundwater Statement of Work" or "Groundwater SOW" shall mean the final statement of work for implementation of the Remedial Design, Remedial Action, and Operation and Maintenance for the groundwater remedy at the Site, and any modifications made in accordance with this Consent Decree. Upon issuance by EPA, the Groundwater SOW shall become an enforceable part of this Consent Decree.

"Groundwater Supervising Contractor" shall mean the principal contractor retained by the Settling Defendants to supervise and direct the implementation of the Groundwater Work under this Consent Decree.

"Groundwater Work" shall mean all activities, relating to the groundwater remedy for the Site, that Settling Defendants are required to perform under this Consent Decree, except those required by Section XXVII (Retention of Records).

"Hazardous Substance Superfund" shall mean the fund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, or any successor fund or Treasury account as may be designated in the future for receipt of cost recovery payments under CERCLA.

"Institutional Controls" shall mean deed restrictions or other declarations of covenants, conditions, and restrictions and other requirements and controls developed, requested, or approved as response actions by EPA and/or NJDEP for one or more of the following purposes:

- 1) to restrict the use of groundwater at the Site or to contain the areal extent of contamination at the Site;
- 2) to limit human or animal exposure to Waste Material at the Site;
- 3) to ensure non-interference with the performance, operation, and maintenance of the Groundwater Work and/or the Wetlands Work; and
- 4) to ensure the integrity and effectiveness of the Groundwater Work and/or the Wetlands Work.

"Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

"Lagoon Work" shall mean (1) all response actions undertaken or initiated by EPA, prior to the effective date of this Consent Decree, pursuant to the remedy selected by EPA in the 1984 ROD, and (2) all future response actions within the lagoon area footprint that EPA may, in its sole discretion consistent with its statutory authorities, undertake or obtain to excavate buried drums, debris, or soils, contaminated with hazardous substances (including buried drums, debris or soils located in "fingers and veins"). For purposes of this definition, "lagoon area footprint" means the

area delineated as such in Appendix F to this Consent Decree. For purposes of this definition, "fingers and veins" means areas that contain buried drums, debris, or soils contaminated with hazardous substances, and that (i) are or were contiguous to the lagoon or processing or storage facilities formerly located at the Site as documented by historical aerial photography or other evidence and (ii) are located within the lagoon area footprint but outside the previously excavated area delineated on Appendix F to this Consent Decree. For purposes of this definition, "soils" and "debris" include incinerator ash and exclude (a) dense non-aqueous phase liquids wherever found, and (b) hazardous substances existing as free product, or as light non-aqueous phase liquids, found either below, or floating on and moving vertically with, the water table. Notwithstanding any other provision of this definition, "Lagoon Work" shall not include any response actions taken pursuant to Section XVII (Emergency Response), sub-Paragraphs 11.f, 19.f, and 41.f, or Paragraph 130 (Work Takeover). Nothing in this Consent Decree shall be construed to require EPA to take any response action within the lagoon area footprint or within any other portion of the Site, and any decision by EPA to take or not to take such response actions shall not be subject to dispute resolution under Section XXI or to judicial review.

"Lagoon Work Costs" shall mean all response costs incurred by EPA and NJDEP for the Lagoon Work at any time; and all enforcement costs related to the Site incurred by the United States Department of Justice and the New Jersey Attorney General through the date of entry of this Consent Decree.

"Month" shall mean a calendar month unless expressly provided otherwise.

"National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including, but not limited to, any amendments thereto.

"NJDEP" shall mean the State of New Jersey, Department of Environmental Protection and any successor departments or agencies of the State of New Jersey.

"Paragraph" shall mean a portion of this Consent Decree identified by an arabic numeral or an upper case letter.

"Parties" shall mean the United States, the State of New Jersey, and the Settling Defendants.

"Phase 2 Proposed Plan" shall mean the proposed plan for the Phase 2 groundwater remedy and wetlands remedy for the Site. EPA may, in its sole discretion, issue separate proposed plans for the groundwater remedy and the wetlands remedy, and each shall be considered the "Phase 2 Proposed Plan" for purposes of the Groundwater Work and the Wetlands Work, respectively.

"Phase 2 ROD" shall mean the Record of Decision to be issued by EPA, after completion of the Phase 2 Remedial Investigation and Feasibility Study, for the groundwater remedy and the wetlands remedy for the Site. The term "ROD," whenever used herein without any additional description, shall mean the Phase 2 ROD and not the 1984 ROD. EPA may, in its sole discretion, issue separate Records of Decision for the groundwater remedy and the wetlands remedy, and each shall be considered the "Phase 2 ROD" for purposes of the Groundwater Work and the Wetlands Work, respectively.

"Plaintiffs" shall mean the United States on behalf of EPA and the State of New Jersey, Department of Environmental Protection.

"Project Coordinator" shall mean the person so designated pursuant to Section XIV.

"RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 et seq.

"Removal costs" shall mean the response costs incurred by EPA and NJDEP, or to be incurred by EPA and NJDEP prior to entry of this Consent Decree, for all removal actions taken in connection with the Site, including costs of the Phase 2 Remedial Investigation and Feasibility Study commenced by EPA, and excluding (1) Lagoon Work Costs or (2) costs incurred in connection with the Phase 2 ROD.

"Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

"Settling Defendants" shall mean those Parties identified in Appendix A, and does not include the Settling Federal Agencies or the Settling State Agencies.

"Settling Federal Agencies" shall mean those federal departments, agencies, or instrumentalities identified in Appendix B.

"Settling State Agencies" shall mean the State of New Jersey, Department of Environmental Protection, the New Jersey Department of Military and Veterans' Affairs, and the New Jersey Department of Transportation.

"Site" shall mean the Bridgeport Rental and Oil Services Superfund Site, located at Cedar Swamp Road, Logan Township, Gloucester County, New Jersey, depicted generally in Appendix C, and the areal extent of contamination relating to the release or threatened release of hazardous substances and all suitable areas in very close proximity to the contamination necessary for implementation of response actions.

"Spill Act" shall mean the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

"State" shall mean the State of New Jersey, and all of its departments, institutions, agencies and other instrumentalities of the State of New Jersey, including NJDEP and the Settling State Agencies.

"State Future Response Costs" shall mean all costs, including direct and indirect costs, that the State (not including the New Jersey Department of Military and Veterans' Affairs, and the New Jersey Department of Transportation) incurs after the effective date of this Consent Decree for performance of response actions, including any related enforcement actions, under Section XI (Access and Institutional Controls), Section XVII (Emergency Response), sub-Paragraphs 11.f, 19.f, and 41.f, or Paragraph 130 (Work Takeover), or for enforcement of the terms of this Decree.

"Time Value Adjustments" shall mean those adjustments to the Groundwater Funding Amount and the Wetlands Funding Amount, and to the amounts specified in Paragraphs 153 and 157, calculated in accordance with the method set forth in Appendix D to this Consent Decree.

"United States" shall mean the United States of America, and its departments, agencies and instrumentalities, including EPA and the Settling Federal Agencies.

"Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33), 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous substance" under N.J.S.A. 58:10-23.11b.

"Wetlands Funding Amount" shall mean the sum of (a) \$10 million plus (b) Time Value Adjustments calculated on the initial amount of \$10 million.

"Wetlands Operation and Maintenance" or "Wetlands O & M" shall mean all activities required to maintain the effectiveness of the Wetlands Remedial Action as required under the Wetlands Operation and Maintenance Plan approved or developed by EPA pursuant to this Consent Decree and the Wetlands SOW.

"Wetlands Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the Wetlands Remedial Action that shall be set forth in the Phase 2 ROD or the Wetlands SOW, as defined below, and any modified standards established by EPA for the Site.

"Wetlands Remedial Action" shall mean those activities, except for Wetlands Operation and Maintenance, to be undertaken to implement the wetlands remedy as selected in the Phase 2 ROD, in accordance with the Wetlands SOW and the final Wetlands Remedial Design and Wetlands Remedial Action Work Plans and other plans approved by EPA.

"Wetlands Remedial Action Work Plan" shall mean the document developed pursuant to Paragraph 46 of this Consent Decree and approved by EPA, and any amendments thereto.

"Wetlands Remedial Design" shall mean those activities to be undertaken to develop the final plans and specifications for the Wetlands Work pursuant to the Wetlands Remedial Design Work Plan.

"Wetlands Remedial Design Work Plan" shall mean the document developed pursuant to Paragraph 45 of this Consent Decree and approved by EPA, and any amendments thereto.

"Wetlands Statement of Work" or "Wetlands SOW" shall mean the statement of work for implementation of the Remedial Design, Remedial Action, and Operation and Maintenance for the wetlands remedy at the Site, and any modifications made in accordance with this Consent Decree. Upon issuance by EPA, the Wetlands SOW shall become an enforceable part of this Consent Decree.

"Wetlands Supervising Contractor" shall mean the principal contractor retained by the Settling Defendants to supervise and direct the implementation of the Wetlands Work under this Consent Decree.

"Wetlands Work" shall mean all activities, relating to the wetlands remedy for the Site, that Settling Defendants are required to perform under this Consent Decree, except those required by Section XXVII (Retention of Records).

V. GENERAL PROVISIONS

5. Objectives of the Parties.

The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by the design and implementation of response actions at the Site by the Settling Defendants, to reimburse response costs of the Plaintiffs, to resolve the claims of Plaintiffs against Settling Defendants, and to resolve the claims of the Settling Defendants against the United States and the State, as provided in this Consent Decree.

6. Commitments by Settling Defendants.

a. Settling Defendants shall make payments to the Hazardous Substance Superfund and the Bridgeport Rental and Oil Services Special Account, and to NJDEP, as provided in Section VI of this Consent Decree.

b. Settling Defendants shall finance, together with the Settling Federal Agencies, and perform the Phase 2 RI/FS, as provided in Section VII of this Consent Decree.

c. Settling Defendants shall finance, together with the Settling Federal Agencies, and perform the Groundwater Work in accordance with this Consent Decree, the Phase 2 ROD, the Groundwater SOW, and all design and work plans and other plans, standards, specifications, and schedules set forth herein or developed by Settling Defendants and approved by EPA pursuant to this Consent Decree, as provided in Section VIII of this Consent Decree.

d. In connection with the wetlands remedy, at EPA's election (1) the Settling Federal Agencies shall make payments to the Hazardous Substance Superfund and NJDEP, as provided in this Consent Decree, or (2) Settling Defendants shall perform the Wetlands Work in accordance with this Consent Decree, the Phase 2 ROD, the Wetlands SOW, and all design and work plans and other plans, standards, specifications, and schedules set forth herein or developed by Settling Defendants and approved by EPA pursuant to this Consent Decree, as provided in Section IX of this Consent Decree, and as financed by the Settling Federal Agencies pursuant to Section XXIX of this Consent Decree.

e. The obligations of Settling Defendants to perform response actions, to finance Settling Defendants' share of response actions, and to pay amounts Settling Defendants' owe to the Hazardous Substance Superfund, the Bridgeport Rental and Oil Services Special Account, and NJDEP under this Consent Decree are joint and several. In the event of the insolvency or other failure of any one or more Settling Defendant(s) to implement the requirements of this Consent Decree, the remaining Settling Defendants shall complete all such requirements.

7. Compliance with Applicable Law.

All activities undertaken by Settling Defendants pursuant to this Consent Decree shall be performed in accordance with the requirements of all applicable federal and state laws and regulations. Settling Defendants shall also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws to be set forth in the Phase 2 ROD, the Groundwater SOW, and the Wetlands SOW. The activities conducted pursuant to this Consent Decree, if approved by EPA, shall be considered to be consistent with the NCP.

8. Permits.

a. As provided in section 121(e) of CERCLA and Section 300.400(e) of the NCP, no permit shall be required for any portion of the Groundwater Work or the Wetlands Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Groundwater Work or the Wetlands Work). Where any portion of the Groundwater Work or Wetlands Work that is not on-site requires a federal or state permit or approval, Settling Defendants shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals.

b. Settling Defendants may seek relief under the provisions of Section XX (Force Majeure) of this Consent Decree for any delay in the performance of the Groundwater Work or the Wetlands Work resulting from a failure to obtain, or a delay in obtaining, any permit required for the Groundwater Work or the Wetlands Work.

c. This Consent Decree is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

**VI. SETTLING DEFENDANTS' REIMBURSEMENT OF REMOVAL COSTS
AND LAGOON WORK COSTS**

9. Amounts to be Paid.

a. Within 30 days of the effective date of this Consent Decree, Settling Defendants shall pay \$26,776,812 to the United States as specified below in reimbursement of the Removal Costs and Lagoon Work Costs. Payment shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing U.S.A.O. file number 9201767, the EPA Region and Site/Spill ID 02-07, and DOJ case number 90-11-2-422. Payment shall be made in accordance with instructions to be provided by the United States Attorney's Office for the District of New Jersey to the Settling Defendants upon execution of the Consent Decree. Payments by EFT must be received at the U.S. DOJ lockbox bank by 4:00 P.M. (Eastern Time) to be credited on that day. Of the total amount to be paid pursuant to this sub-Paragraph, \$18,776,812 shall be deposited in the Hazardous Substances Superfund in reimbursement of Settling Defendants' share of the Removal Costs and Lagoon Work Costs incurred at or in connection with the Site as of the effective date of this Consent Decree, and \$8,000,000 shall be deposited in the Bridgeport Rental and Oil Services Special Account within the Hazardous Substances Superfund. The \$8 million paid to the Bridgeport Rental and Oil Services Special Account, plus interest on that amount accrued while in the special account, will be retained and used by EPA, at its sole discretion, to conduct or finance response actions at or in connection with the Site. Any balance remaining in the Bridgeport Rental and Oil Services Special Account may be transferred by EPA to the Hazardous Substances Superfund.

b. Within 30 days of the effective date of this Consent Decree, Settling Defendants shall pay to NJDEP \$1,391,688 in reimbursement of Removal Costs and Lagoon Work Costs. Payment shall be made in the form of a certified check or checks made payable to "Treasurer, State of New Jersey." Settling Defendants shall send the certified check(s) with DEP form 062A to

the New Jersey Department of Environmental Protection, Bureau of Revenue, CN 417, Trenton, New Jersey, 08625.

10. In the event that the payments required by Paragraph 9 are not made within 30 days of the effective date of this Consent Decree, Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on the unpaid balance shall begin to accrue on the effective date of the Consent Decree. Interest shall accrue at the rate specified through the date of Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payment under this Section.

VII. PERFORMANCE OF THE PHASE 2 REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

A. Performance of the Phase 2 RI/FS

11. a. Settling Defendants shall conduct and complete the Phase 2 Remedial Investigation and Feasibility Study ("Phase 2 RI/FS") in accordance with the attached Phase 2 RI/FS Statement of Work (Appendix E), CERCLA, and the NCP. Settling Defendants shall identify and propose Performance Standards, including all "applicable or relevant and appropriate requirements" as required by Section 121(d) of CERCLA, 42 U.S.C. § 9621(d), and 40 C.F.R. § 300.400(g), and in accordance with the requirements and schedule established in or pursuant to the Phase 2 RI/FS Statement of Work. Pursuant to the Phase 2 RI/FS Statement of Work, Settling Defendants shall determine the nature and extent of groundwater and other Site-related contamination, such as wetlands, currently remaining at the Site, and shall develop and evaluate the feasibility of potential remedial alternatives for mitigating any hazards or risks to public health, welfare, or the environment posed by Site contamination.

b. If the suspension conditions set forth in sub-Paragraph 11.c occur at any time during Settling Defendants' performance of the Phase 2 RI/FS, then, subject to the limitations set

forth in sub-Paragraphs 11.e and 11.k, Settling Defendants' obligation to perform, or to finance the performance of, the Phase 2 RI/FS (except for progress reports pursuant to Paragraph 63) shall be suspended from the date suspension conditions arise until the date that suspension conditions are terminated as set forth in sub-Paragraph 11.i.

c. "Suspension conditions" with respect to the Phase 2 RI/FS shall be deemed to exist if at any given time any costs or portions of any costs that were reported as Allowable Phase 2 RI/FS Costs on one or more Monthly Cost Submissions either (i) have not been reimbursed to the extent required by Paragraph 150 within 90 days after the date such reimbursement was due under Paragraph 150 and have not been disallowed pursuant to Paragraph 64 or 150, or (ii) have not been reimbursed to the extent required by Paragraph 151.e within 30 days after the date that the United States receives the notice required by Paragraph 64.i.

d. In the event that any reimbursement for reported Allowable Phase 2 RI/FS Costs is not made when due pursuant to Paragraph 150 or sub-Paragraph 151.e, Settling Defendants shall so notify the United States, NJDEP, and the agent designated by Settling Federal Agencies pursuant to Paragraph 148.b, in writing, no later than (i) seven days after reimbursement was due pursuant to Paragraph 150 or (ii) the first working day after reimbursement was due pursuant to sub-Paragraph 151.e. Settling Defendants shall also orally notify the EPA and NJDEP Project Coordinators or Alternate Project Coordinators both (A) within seven days after reimbursement was due pursuant to Paragraph 150 and (B) the first working day after reimbursement was due pursuant to sub-Paragraph 151.e. If the written notice by Settling Defendants so requests, within 21 days of receiving the notice representatives of EPA, NJDEP and/or Settling Federal Agencies shall discuss with representatives of Settling Defendants the reason reimbursement was not made when due and/or any proposed changes in the schedule for or performance of the Phase 2 RI/FS in light of the late reimbursement.

e. In the event that Settling Defendants have begun but not completed any emergency response action under Paragraph 91 at the time suspension conditions arise, Settling Defendants shall complete all appropriate action to prevent, abate, or minimize the release or threat of release involved notwithstanding the existence of suspension conditions. If suspension conditions arise, Settling Defendants may suspend performance of the Phase 2 RI/FS only in an orderly manner that does not create conditions that constitute an emergency situation or may present an immediate threat to public health or welfare or the environment such that emergency response would be required pursuant to Section XVII.

f. If Settling Defendants suspend performance of the Phase 2 RI/FS during suspension conditions, EPA may, in its sole discretion (after a reasonable opportunity for review and comment by NJDEP) and after notice to Settling Defendants, NJDEP, and the Settling Federal Agencies, assume performance of all or a portion of the Phase 2 RI/FS during suspension conditions. EPA shall not make the determinations in sub-Paragraph 130.a during the existence of suspension conditions pursuant to this Paragraph. Settling Defendants shall not be liable for any stipulated penalty under Paragraph 114 as a result of EPA's assumption of performance of all or a portion of the Phase 2 RI/FS during the existence of suspension conditions pursuant to this Paragraph.

g. Stipulated penalties under Paragraphs 111, 112, or 113 shall not arise as a result of Settling Defendants' failure to perform the Phase 2 RI/FS (except Paragraph 63) during suspension conditions. Stipulated penalties under Paragraphs 111, 112, or 113 that arose prior to suspension conditions for failure to perform the Phase 2 RI/FS are not waived but shall not continue to accrue while suspension conditions exist.

h. The existence of suspension conditions shall not alter Settling Defendants' obligations as set forth in this Consent Decree to make any payment of money to the Hazardous Substance Superfund, NJDEP, or the Settling Federal Agencies that became due before, or may become due during, suspension conditions, including without limitation payments due under

Paragraphs 9, 10, 14, 22, 91, 94, 96, 98, 111 through 116, and 151. Except as provided in sub-Paragraph 11.g, the existence of suspension conditions shall not alter Settling Defendants' liability for stipulated penalties pursuant to Section XXII. The existence of suspension conditions shall not stay any dispute resolution procedure pursuant to Paragraphs 12, 17, or 39, or Section XXI, regardless of when the dispute arose. The existence of suspension conditions shall not alter the obligations of the Settling Federal Agencies under Section XXIX, of Settling State Agencies under Section XXX, or of EPA or NJDEP or both under sub-Paragraphs 21.c or 43.b, to make any payment that became due before, or that may become due during, suspension conditions.

i. Suspension conditions shall terminate immediately upon receipt by Settling Defendants of all past due reimbursements and Interest thereon, and Settling Defendants shall so notify the United States and NJDEP within 10 days of receipt of such payments. The termination of suspension conditions shall reinstate Settling Defendants' obligation to perform, and, together with the Settling Federal Agencies, to finance the Phase 2 RI/FS. Within 10 days of notice to the United States and NJDEP, EPA and the Settling Defendants shall meet to plan Settling Defendants' resumption of the Phase 2 RI/FS in light of the changed circumstances associated with the suspension and (if applicable) the transfer of responsibility for the Phase 2 RI/FS from EPA to Settling Defendants. NJDEP shall be given the opportunity to attend the meeting. After such meeting and after a reasonable opportunity for review and comment by NJDEP, EPA will make such modifications to the schedule for completion of the Phase 2 RI/FS as are necessary and reasonable in light of the duration of suspension conditions, the assumption (if any) of Phase 2 RI/FS performance by EPA during the existence of suspension conditions, any disruption of the contractual relationship between the Settling Defendants and their contractors as a result of suspension conditions, the need for a startup period, and other conditions.

j. If suspension conditions with respect to the Phase 2 RI/FS exist for any 24 consecutive months, Settling Defendants' obligation to perform, or to finance the performance of, the

Phase 2 RI/FS shall cease and shall not be subject to reinstatement upon payment of all past due costs and Interest thereon. If Settling Defendants' obligation to perform, and to finance the performance of, the Phase 2 RI/FS ceases pursuant to this sub-Paragraph, then for purposes of Paragraphs 14 and 152 the last Monthly Cost Submission submitted prior to such cessation of the Phase 2 RI/FS shall be deemed the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j, and Settling Defendants shall make any payment due under Paragraph 14 in accordance with that Paragraph.

k. Costs incurred by the United States in performing the Phase 2 RI/FS during suspension conditions pursuant to sub-Paragraph 11.f shall be considered Future Response Costs that Settling Defendants shall pay, except as otherwise provided in this sub-Paragraph, pursuant to Section XVIII (Reimbursement of Future Response Costs). However, EPA shall not send Settling Defendants a bill requiring payment of costs incurred pursuant to sub-Paragraph 11.f until after suspension conditions have terminated pursuant to sub-Paragraph 11.i or Settling Defendants' obligation to perform the Phase 2 RI/FS has ceased pursuant to sub-Paragraph 11.j, whichever occurs first. If EPA sends a bill under this sub-Paragraph after Settling Defendants' obligation to perform the Phase 2 RI/FS has ceased pursuant to sub-Paragraph 11.j, such bill shall require Settling Defendants to pay 21.1% of costs incurred by the United States during suspension conditions pursuant to sub-Paragraph 11.f, and payment of such bill by Settling Defendants shall not be subject to reimbursement by the Settling Federal Agencies.

l. Nothing in this Paragraph shall be deemed to prohibit Settling Defendants from voluntarily continuing to perform the Phase 2 RI/FS during suspension conditions.

12. Disputes Concerning the Phase 2 RI/FS.

a. Except as provided in Paragraph 64 (Cost Accounting and Review), Section XIII (EPA Approval of Plans and Other Submissions), Section XX (Force Majeure), and Section XXII (Stipulated Penalties), the provisions of this Paragraph shall be the sole mechanism for the resolution of disputes concerning the Phase 2 RI/FS. Any dispute subject to the provisions of this

Paragraph shall not be subject to judicial review or to the provisions of Section XXI (Dispute Resolution). Settling Defendants shall attempt to resolve any dispute concerning the Phase 2 RI/FS through informal negotiations with EPA during a period not to exceed 14 days, commencing 7 days from the time Settling Defendants send written notice of the dispute to EPA, with copies to NJDEP and the Settling Federal Agencies.

b. In the event that informal negotiations do not resolve the dispute, then within 14 days after the conclusion of the informal negotiation period Settling Defendants shall serve on EPA, with a copy to NJDEP and the Settling Federal Agencies, a written Statement of Position on the matter, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants, and concurrently EPA shall, after a reasonable opportunity for review and comment by NJDEP, serve on Settling Defendants, with a copy to NJDEP and the Settling Federal Agencies, its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. If so requested in Settling Defendants' Statement of Position, within 10 days after the exchange of Statements of Position, the Deputy Regional Administrator, EPA Region 2, and the Director of the Emergency and Remedial Response Division, EPA Region 2, shall meet with representatives of the Settling Defendants, and their respective counsel in an effort to resolve the dispute. Within 5 days after the meeting, EPA shall notify the Settling Defendants in writing, with a copy to NJDEP and the Settling Federal Agencies, of EPA's preliminary response to the concerns raised by the Settling Defendants. At the request of EPA or the Settling Defendants, a second meeting with the above personnel shall be held within 15 days of the first meeting, provided that the request for a second meeting is made no later than 10 days after the first meeting. NJDEP and Settling Federal Agencies will be given an opportunity to attend both meetings. Within 15 days after the final meeting (or after the exchange of Statements of Position if no meeting is requested),

EPA shall notify Settling Defendants in writing, with a copy to NJDEP and the Settling Federal Agencies, of its decision regarding the dispute and the reasons supporting the decision.

B. Financing the Performance of the Phase 2 RI/FS

13. Settling Defendants, together with the Settling Federal Agencies in accordance with Section XXIX, shall finance the performance of the RI/FS.

14. a. If, on the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j, the Settling Defendants report that they have incurred total Allowable Phase 2 RI/FS Costs of less than \$3 million, the Settling Defendants shall pay to the Hazardous Substance Superfund 21.1% of the difference between their total reported Allowable Phase 2 RI/FS Costs and \$3 million. Such payment shall be made within 30 days of the submission of the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j.

b. If, after Settling Defendants have submitted the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j, (i) a cost previously reported as an Allowable Phase 2 RI/FS Cost is finally disallowed pursuant to Paragraph 64, and (ii) subtraction of the finally disallowed cost from the total Allowable Phase 2 RI/FS Costs reported on the Final Phase 2 RI/FS Cost Submission would have increased the payment required pursuant to sub-Paragraph 14.a, then Settling Defendants shall within 30 days of the final disallowance pay to the Hazardous Substance Superfund the amount of the additional payment required pursuant to sub-Paragraph 14.a.

c. In the event that any payments required by this Paragraph are not made when due, Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on the unpaid balance shall begin to accrue on the date the payments were otherwise due. Interest shall accrue at the rate specified through the date of Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payment under this Paragraph.

15. Any payment under Paragraph 14 shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing U.S.A.O. file number 9201767, the EPA Region and Site/Spill ID 02-07, and DOJ case number 90-11-2-422. Payment shall be made in accordance with instructions to be provided by the United States Attorney's Office for the District of New Jersey to the Settling Defendants upon execution of the Consent Decree. Payments by EFT must be received at the U.S. DOJ lockbox bank by 4:00 P.M. (Eastern Time) to be credited on that day.

VIII. PERFORMANCE OF THE GROUNDWATER WORK

A. Selection of the Groundwater Remedy

16. As provided in Section 121 of CERCLA, 42 U.S.C. § 9621, and the NCP, and in a manner consistent with Section 117 of CERCLA, 42 U.S.C. § 9617, EPA shall select the groundwater remedy for the Site and shall issue a Phase 2 ROD setting forth EPA's selected groundwater remedy.

a. Phase 2 Proposed Plan. Consistent with Section 117(a) of CERCLA, 42 U.S.C. § 9617(a), prior to issuing the Phase 2 ROD setting forth EPA's selected groundwater remedy, EPA shall issue a Proposed Plan for the Phase 2 remedy for the Site ("Phase 2 Proposed Plan").

b. Phase 2 ROD. Consistent with the provisions of CERCLA, including but not limited to EPA's obligations under Sections 117 and 121 of CERCLA, EPA shall issue the Phase 2 ROD setting forth EPA's decision regarding the groundwater remedy for the Site. If Settling Defendants invoke the provisions of Paragraph 17, EPA shall issue the Phase 2 ROD only after completion, pursuant to Paragraph 17, of all discussion and meetings that Settling Defendants initiated within the time limits required by Paragraph 17.

17. Discussion and Meetings with Settling Defendants Regarding the Phase 2 Proposed Plan. EPA shall immediately provide a copy of the Phase 2 Proposed Plan to Settling

Defendants, NJDEP, and the Settling Federal Agencies. After Settling Defendants have received the Phase 2 Proposed Plan, but before EPA's issuance of the Phase 2 ROD, Settling Defendants may invoke the provisions of this Paragraph with respect to any dispute, concern, or question relating to the Phase 2 Proposed Plan.

a. Settling Defendants shall first attempt to resolve any such dispute, concern or question through informal negotiations with EPA during a period not to exceed 14 days, commencing 7 days after the date the Settling Defendants receive the Phase 2 Proposed Plan.

b. In the event that informal negotiations do not resolve the dispute, concern or question, then within 14 days after the conclusion of the informal negotiation period Settling Defendants shall serve on EPA, with a copy to NJDEP and the Settling Federal Agencies, a written Statement of Position on the matter, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants, and concurrently EPA shall, after a reasonable opportunity for review and comment by NJDEP, serve on Settling Defendants, with a copy to NJDEP and the Settling Federal Agencies, its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. If so requested in Settling Defendants' Statement of Position, within 10 days after the exchange of Statements of Position, the Deputy Regional Administrator, EPA Region 2, and the Director of the Emergency and Remedial Response Division, EPA Region 2, shall meet with representatives of the Settling Defendants, and their respective counsel in an effort to resolve the dispute. Within 5 days after the meeting, EPA shall notify the Settling Defendants in writing, with a copy to NJDEP and the Settling Federal Agencies, of EPA's preliminary response to the disputes, concerns, or questions raised in the Settling Defendants' Statement of Position. At the request of EPA or the Settling Defendants, a second meeting with the above personnel shall be held within 15 days of the first meeting, provided that the request for a

second meeting is made no later than 10 days after the first meeting. NJDEP and Settling Federal Agencies will be given an opportunity to attend both meetings.

c. The provisions of this Paragraph shall be the sole mechanism for the resolution of disputes concerning the proposed Phase 2 groundwater remedy as set forth in the Phase 2 Proposed Plan, and any such dispute shall not be subject to judicial review or to the provisions of Section XXI (Dispute Resolution). Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendants regarding the validity of the provisions of the Phase 2 ROD after EPA has issued the Phase 2 ROD. Nothing in this Consent Decree shall be construed to limit any Settling Defendant's rights to public participation under Section 117 of CERCLA, nor shall anything in this Consent Decree be construed to limit the rights of the State to participate in the selection of remedial actions under Section 121 of CERCLA and the NCP.

18. After issuance of the Phase 2 ROD, EPA shall issue to Settling Defendants a draft Groundwater SOW, with a copy to NJDEP and the Settling Federal Agencies. Settling Defendants may provide EPA, with a copy to NJDEP and the Settling Federal Agencies, with comments on the draft Groundwater SOW during a time period to be specified by EPA. EPA shall consider any comments received and, after a reasonable opportunity for review and comment by NJDEP, shall issue to Settling Defendants a final Groundwater SOW, which shall be incorporated into and shall become enforceable as a part of this Consent Decree. Along with issuance of the final Groundwater SOW, EPA shall also respond to all significant comments raised by Settling Defendants.

B. Performance of Groundwater Work

19. a. Settling Defendants shall perform the Groundwater Work as provided for in this Section VIII.

b. If the suspension conditions set forth in sub-Paragraph 19.c occur at any time during Settling Defendants' performance of the Groundwater Work, then, subject to the limitations set forth in sub-Paragraphs 19.e and 19.k, Settling Defendants' obligation to perform, or to finance the

performance of, the Groundwater Work (except for progress reports pursuant to Paragraph 63) shall be suspended from the date suspension conditions arise until the date that suspension conditions are terminated as set forth in sub-Paragraph 19.i.

c. "Suspension conditions" with respect to the Groundwater Work shall be deemed to exist if at any given time any costs or portions of any costs that were reported as Allowable Groundwater Costs on one or more Monthly Cost Submissions either:

(i) have not been reimbursed to the extent required by Paragraph 150 within 90 days after the date such reimbursement was due under Paragraph 150 and have not been disallowed pursuant to Paragraph 64 or 150; or

(ii) are required to be reimbursed to Settling Defendants pursuant to the procedures set forth in Paragraph 21 and have not been disallowed and have not been reimbursed within 90 days of the date such reimbursement was due in accordance with Paragraph 21.c; or

(iii) have not been reimbursed to the extent required by Paragraph 151.e within 30 days after the date that the United States receives the notice required by Paragraph 64.i.

d. In the event that any reimbursement for reported Allowable Groundwater Costs is not made when due pursuant to Paragraph 21 or 150 or 151.e, Settling Defendants shall so notify the United States, NJDEP, and the agent designated by Settling Federal Agencies pursuant to Paragraph 148.b, in writing, no later than (i) seven days after the reimbursement was due pursuant to Paragraphs 21 or 150 or (ii) the first working day after reimbursement was due pursuant to sub-Paragraph 151.e. Settling Defendants shall also orally notify the EPA and NJDEP Project Coordinators or Alternate Project Coordinators both (A) within seven days after the reimbursement was due pursuant to Paragraphs 21 or 150 and (B) on the first working day after reimbursement was due pursuant to sub-Paragraph 151.e. If the written notice by Settling Defendants so requests, within 21 days of receiving the notice representatives of EPA, NJDEP and/or Settling Federal Agencies shall discuss with representatives of Settling Defendants the reason reimbursement was not made when due

and/or any proposed changes in the schedule for or performance of the Groundwater Work in light of the late reimbursement.

e. In the event that Settling Defendants have begun but not completed any emergency response action under Paragraph 91 at the time suspension conditions arise, Settling Defendants shall complete all appropriate action to prevent, abate, or minimize the release or threat of release involved notwithstanding the existence of suspension conditions. If suspension conditions arise, Settling Defendants may suspend performance of the Groundwater Work only in an orderly manner that does not create conditions that constitute an emergency situation or may present an immediate threat to public health or welfare or the environment such that emergency response would be required pursuant to Section XVII.

f. If Settling Defendants suspend performance of the Groundwater Work during suspension conditions, EPA may, in its sole discretion (after a reasonable opportunity for review and comment by NJDEP) and after notice to Settling Defendants, NJDEP, and the Settling Federal Agencies, assume performance of all or a portion of the Groundwater Work during suspension conditions. EPA shall not make the determinations in sub-Paragraph 130.b during the existence of suspension conditions pursuant to this Paragraph. Settling Defendants shall not be liable for any stipulated penalty under Paragraph 115 as a result of EPA's assumption of performance of all or a portion of the Groundwater Work during the existence of suspension conditions pursuant to this Paragraph.

g. Stipulated penalties under Paragraphs 111, 112 or 113 shall not arise as a result of Settling Defendants' failure to perform the Groundwater Work (except Paragraph 63) during suspension conditions. Stipulated penalties under Paragraphs 111, 112, or 113 that arose prior to suspension conditions for failure to perform the Groundwater Work are not waived but shall not continue to accrue while suspension conditions exist.

h. The existence of suspension conditions shall not alter Settling Defendants' obligations as set forth in this Consent Decree to make any payment of money to the Hazardous Substance Superfund, NJDEP, or the Settling Federal Agencies that became due before, or may become due during, suspension conditions, including without limitation payments due under Paragraphs 9, 10, 14, 22, 91, 94, 96, 98, 111 through 116, and 151. Except as provided in sub-Paragraph 19.g, the existence of suspension conditions shall not alter Settling Defendants' liability for stipulated penalties pursuant to Section XXII. The existence of suspension conditions shall not stay any dispute resolution procedure pursuant to Paragraphs 12, 17, or 39, or Section XXI, regardless of when the dispute arose. The existence of suspension conditions shall not alter the obligations of the Settling Federal Agencies under Section XXIX, of Settling State Agencies under Section XXX, or of EPA or NJDEP or both under sub-Paragraphs 21.c or 43.b, to make any payment that became due before, or that may become due during, suspension conditions.

i. Suspension conditions shall terminate immediately upon receipt by Settling Defendants of all past due reimbursements and Interest thereon, and Settling Defendants shall so notify the United States and NJDEP within 10 days of receipt of such payments. The termination of suspension conditions shall reinstate Settling Defendants' obligation to perform, and, together with the Settling Federal Agencies, to finance the Groundwater Work. Within 10 days of notice to the United States and NJDEP, EPA and the Settling Defendants shall meet to plan Settling Defendants' resumption of the Groundwater Work in light of the changed circumstances associated with the suspension and (if applicable) the transfer of responsibility for the Groundwater Work from EPA to Settling Defendants. NJDEP shall be given the opportunity to attend the meeting. After such meeting and after a reasonable opportunity for review and comment by NJDEP, EPA will make such modifications to the schedule for completion of the Groundwater Work as are necessary and reasonable in light of the duration of suspension conditions, any disruption of the contractual relationship between the Settling Defendants and their contractors as a result of suspension conditions,

the assumption (if any) of Groundwater Work performance by EPA during the existence of suspension conditions, the need for a startup period, and other conditions.

j. If suspension conditions with respect to the Groundwater Work exist for any 24 consecutive months, Settling Defendants' obligation to perform, or to finance the performance of, the Groundwater Work shall cease and shall not be subject to reinstatement upon payment of all past due costs and Interest thereon. If Settling Defendants' obligation to perform the Groundwater Work ceases pursuant to this sub-Paragraph, then for purposes of Paragraphs 21 and 153 the last Monthly Cost Submission submitted prior to such cessation of the Groundwater Work shall be deemed the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, and Settling Defendants shall make any payment due under Paragraph 22 in accordance with that Paragraph.

k. Costs incurred by the United States in performing the Groundwater Work during suspension conditions pursuant to sub-Paragraph 19.f shall be considered Future Response Costs that Settling Defendants shall pay, except as otherwise provided in this sub-Paragraph, pursuant to Section XVIII (Reimbursement of Future Response Costs). Costs incurred by NJDEP related to the Groundwater Work pursuant to sub-Paragraph 19.f shall be considered State Future Response Costs that Settling Defendants shall pay, except as otherwise provided in this sub-Paragraph, pursuant to Section XVIII (Reimbursement of Future Response Costs). However, EPA and NJDEP shall not send Settling Defendants a bill requiring payment of costs incurred pursuant to sub-Paragraph 19.f until after suspension conditions have terminated pursuant to sub-Paragraph 19.i or Settling Defendants' obligation to perform the Groundwater Work has ceased pursuant to sub-Paragraph 19.j, whichever occurs first. If EPA or NJDEP sends a bill under this sub-Paragraph after Settling Defendants' obligation to perform the Groundwater Work has ceased pursuant to sub-Paragraph 19.j, such bill shall require Settling Defendants to pay

(i) 21.1% of costs incurred by the United States or NJDEP (as appropriate) during suspension conditions pursuant to sub-Paragraph 19.f, to the extent that Settling Defendants have reported incurring Allowable Groundwater Costs less than or equal to \$85 million; and

(ii) 10.55% of costs incurred by the United States or NJDEP (as appropriate) during suspension conditions pursuant to sub-Paragraph 19.f, to the extent that Settling Defendants have reported incurring Allowable Groundwater Costs greater than \$85 million; and payment of such bill by Settling Defendants shall not be subject to reimbursement by the Settling Federal Agencies.

1. Nothing in this Paragraph shall be deemed to prohibit Settling Defendants from voluntarily continuing to perform the Groundwater Work during suspension conditions.

C. Financing the Performance of the Groundwater Work

20. a. Settling Defendants shall, together with the Settling Federal Agencies as provided in Section XXIX, finance the Groundwater Work until EPA certifies, pursuant to Paragraph 88, that the Groundwater Work is complete, or until the Settling Defendants have incurred Allowable Groundwater Costs equalling the Groundwater Funding Amount, whichever occurs first.

b. After Settling Defendants have incurred Allowable Groundwater Costs equalling the Groundwater Funding Amount, if (i) EPA has not yet certified that the Groundwater Work is complete, and (ii) EPA or NJDEP or both elect, in their sole discretion, to finance 50% of the cost of any remaining Groundwater Work pursuant to Paragraph 21, then Settling Defendants shall perform and, together with the Settling Federal Agencies as provided in Section XXIX, shall finance 50% of the cost of, any remaining Groundwater Work. If neither EPA nor NJDEP notifies Settling Defendants, pursuant to Paragraph 21, that EPA or NJDEP or both will finance 50% of the cost of any remaining Groundwater Work, then Settling Defendants shall have no further obligation to perform or finance any Groundwater Work except as provided in Paragraphs 30, 33, 35, and 37.

21. Procedures for EPA/NJDEP Financing If Allowable Groundwater Costs

Exceed Groundwater Funding Amount.

a. Twelve months prior to the projected date that Settling Defendants will have incurred Allowable Groundwater Costs equalling \$85 million, Settling Defendants shall so notify the United States and NJDEP in writing, and the United States and NJDEP will acknowledge, in writing, receipt of such notice.

b. Twelve months prior to the projected date that Settling Defendants will have incurred Allowable Groundwater Costs equalling the Groundwater Funding Amount, Settling Defendants shall so notify the United States and NJDEP in writing. No later than 3 months prior to the projected date specified in such notice, EPA or NJDEP or both shall notify the Settling Defendants in writing, with a copy to the Settling Federal Agencies, whether or not EPA or NJDEP or both will finance 50% of the cost of any of the remaining Groundwater Work above the Groundwater Funding Amount.

c. If EPA or NJDEP or both elect, in their sole discretion, to finance 50% of any such work, the notice required by Paragraph 21.b shall include (1) a statement of the legal authority for such financing, (2) a statement of the amount of such financing that is available, (3) a statement of the mechanism, consistent with then-existing laws and regulations, to be used by EPA or NJDEP or both for providing such financing as expeditiously as reasonably practicable to the Settling Defendants, and (4) any limitations on the time period for which such financing is available, such as a particular fiscal year or portion thereof.

d. After EPA or NJDEP or both have begun to provide funds to Settling Defendants pursuant to Paragraph 21.b, then nine months prior to the projected date that Settling Defendants will have exhausted the amount of such funds or the time during which such funds are available, Settling Defendants shall so notify the United States and NJDEP in writing. No later than three months prior to the projected date specified in such notice, EPA or NJDEP or both shall notify

the Settling Defendants, with a copy to the Settling Federal Agencies, subject to the procedures set forth in sub-Paragraph 21.c, whether or not EPA or NJDEP or both will continue to finance 50% of the cost of any remaining Groundwater Work.

e. Provided that Settling Defendants have received a notice required by sub-Paragraph 21.b or 21.d that satisfies the requirements of sub-Paragraph 21.c, then, subject to the provisions of Paragraph 19, Settling Defendants shall, together with Settling Federal Agencies as provided in Section XXIX, continue to finance 50% of the remaining Groundwater Work after expending the Groundwater Funding Amount, in accordance with sub-Paragraph 20.b, until the amount of EPA and/or NJDEP funding set forth in such notice is exhausted.

f. Nothing in this Consent Decree shall be interpreted as a commitment or requirement that the United States on behalf of EPA undertake any obligation or make any payment in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law. Nothing in this Consent Decree shall be interpreted as a commitment or requirement that the State undertake any obligation or make any payment in contravention of N.J. Const. art. 8, §2, ¶2, or any other applicable provision of law.

22. If, on the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, the Settling Defendants report that they have incurred total Allowable Groundwater Costs of less than the Groundwater Funding Amount, the Settling Defendants shall pay to the Hazardous Substance Superfund and NJDEP as follows:

a. If Settling Defendants reported that they have incurred less than \$85 million in total Allowable Groundwater Costs, Settling Defendants shall pay to the Plaintiffs 21.1% of the difference between \$85 million and their reported total Allowable Groundwater Costs. 91% of this amount shall be paid to the Hazardous Substance Superfund and 9% of this amount shall be paid to NJDEP. Any such payment shall be made within 30 days after submission of the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1.

b. If, after Settling Defendants have submitted the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, (i) a cost previously reported as an Allowable Groundwater Cost is finally disallowed pursuant to Paragraph 64, and (ii) subtraction of the finally disallowed cost from the total Allowable Groundwater Costs reported on the Final Groundwater Cost Submission would have increased the payment required pursuant to sub-Paragraph 22.a, then Settling Defendants shall within 30 days of the final disallowance pay to the Hazardous Substance Superfund and to NJDEP the amounts of the additional payments required pursuant to sub-Paragraph 22.a.

c. Any payment to the Hazardous Substance Superfund under this Paragraph shall be made by Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice lockbox bank, referencing U.S.A.O. file number 9201767, the EPA Region and Site/Spill ID 02-07, and DOJ case number 90-11-2-422. Payment shall be made in accordance with instructions to be provided by the United States Attorney's Office for the District of New Jersey to the Settling Defendants upon execution of the Consent Decree. Payments by EFT must be received at the U.S. DOJ lockbox bank by 4:00 P.M. (Eastern Time) to be credited on that day. Any payment to NJDEP under this Paragraph shall be made in the form of a certified check or checks made payable to "Treasurer, State of New Jersey." Settling Defendants shall send the certified check(s) with DEP form 062A to the New Jersey Department of Environmental Protection, Bureau of Revenue, CN 417, Trenton, New Jersey, 08625.

d. In the event that any payments required by this Paragraph are not made when due, Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on the unpaid balance shall begin to accrue on the date the payments were otherwise due. Interest shall accrue at the rate specified through the date of Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payment under this Paragraph.

e. The Settling Defendants' obligations under this Section are in addition to Settling Defendants' obligations under the Financial Assurance provisions of Section XV.

23. Selection of Groundwater Supervising Contractor.

a. All aspects of the Groundwater Work to be performed by Settling Defendants pursuant to this Section and Sections X (Quality Assurance, Sampling and Data Analysis) and XVII (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Groundwater Supervising Contractor. The selection of the Groundwater Supervising Contractor shall be subject to disapproval by EPA after a reasonable opportunity for review and comment by NJDEP. Within 10 days after the issuance of the Groundwater SOW, Settling Defendants shall notify EPA and NJDEP, with a copy to the Settling Federal Agencies, in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor for Groundwater Work. EPA will issue a notice of disapproval or an authorization to proceed. If at any time thereafter, Settling Defendants propose to change a Groundwater Supervising Contractor, Settling Defendants shall give such notice to EPA and NJDEP and must obtain an authorization to proceed from EPA, after a reasonable opportunity for review and comment by NJDEP, before the new Groundwater Supervising Contractor performs, directs, or supervises any Groundwater Work under this Consent Decree.

b. If EPA disapproves a proposed Groundwater Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA and NJDEP a list of contractors, including the qualifications of each contractor, that would be acceptable to them within 30 days of receipt of EPA's disapproval of the contractor previously proposed. EPA, after reasonable opportunity for review and comment by NJDEP, will provide written notice of the names of any contractor(s) that it disapproves and an authorization to proceed with respect to any of the other contractors. Settling Defendants may select any contractor from that list that is not disapproved and shall notify EPA and NJDEP of the name of the contractor selected within 21 days of EPA's authorization to proceed.

c. If EPA fails to provide written notice of its authorization to proceed or disapproval as provided in this Paragraph and this failure prevents the Settling Defendants from meeting one or more deadlines in a plan approved by EPA pursuant to this Consent Decree, Settling Defendants may seek relief under the provisions of Section XX (Force Majeure) hereof.

24. Remedial Design.

a. Within 30 days after EPA's issuance of an authorization to proceed pursuant to Paragraph 23, Settling Defendants shall submit to EPA and NJDEP, with a copy to the Settling Federal Agencies, a work plan for the design of the Groundwater Remedial Action ("Groundwater Remedial Design Work Plan"). The Groundwater Remedial Design Work Plan shall provide for design of the groundwater remedy as set forth in the Phase 2 ROD, in accordance with the Groundwater SOW, and for achievement of the Groundwater Performance Standards and other requirements set forth in the Phase 2 ROD, this Consent Decree and the Groundwater SOW. Upon approval by EPA, after a reasonable opportunity for review and comment by NJDEP, of the Groundwater Remedial Design Work Plan, the Plan shall be incorporated into and become enforceable under this Consent Decree. Within 30 days after EPA's issuance of an authorization to proceed, the Settling Defendants shall submit to EPA and NJDEP a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Groundwater Remedial Design Work Plan shall include plans and schedules for implementation of all remedial design and pre-design tasks identified in the Groundwater SOW, including, but not limited to, the following additional deliverables unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) Groundwater Remedial Design Schedule; (2) Site Management Plan; (3) Sampling, Analysis, and Monitoring Plan; (4) Quality Assurance Project Plan; (5) Data Evaluation Summary Report; (6) Health and Safety Plan/Contingency Plan; (7) Community Relations Plan;

(8) Groundwater Monitoring and Long-Term Groundwater Monitoring Plans; (9) Groundwater Modelling Plan; (10) Groundwater Treatability Study Plan; (11) Acquisition of Access and Approvals Plan; (12) Preliminary Design; (13) Intermediate Design; (14) Pre-final Design and Final Design; (15) Preliminary O & M Plan; (16) Draft Schedules for Remedial Action, O & M, and Post-remediation Monitoring. In addition, the Groundwater Remedial Design Work Plan shall include a schedule for completion of the Groundwater Remedial Action Work Plan.

c. Upon approval of the Groundwater Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by NJDEP, and submittal of the Health and Safety Plan for all field activities to EPA and NJDEP, Settling Defendants shall implement the Groundwater Remedial Design Work Plan. The Settling Defendants shall submit to EPA and NJDEP all plans, submittals and other deliverables required under the approved Groundwater Remedial Design Work Plan in accordance with the approved schedule for review and approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Defendants shall not commence further Groundwater Remedial Design activities at the Site prior to approval of the Groundwater Remedial Design Work Plan.

d. The preliminary design submittal shall include, at a minimum, the following unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) design criteria; (2) results of treatability studies; (3) results of additional field sampling and pre-design work; (4) project delivery strategy; (5) preliminary plans, drawings and sketches; (6) required specifications in outline form; (7) preliminary construction schedule; and (8) preliminary cost estimates.

e. The intermediate design submittal, if required by EPA or if independently submitted by the Settling Defendants, shall be a continuation and expansion of the preliminary design. Any value engineering proposals must be identified and evaluated in this submittal.

f. The pre-final/final design submittal shall include, at a minimum, the following unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) final plans and specifications; (2) Operation and Maintenance Plan; (3) Construction Quality Assurance Project Plan (CQAPP); (4) Field Sampling Plan (directed at measuring progress towards meeting Performance Standards); and (5) Contingency Plans. The CQAPP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Groundwater Supervising Contractor, to conduct a quality assurance program during the construction phase of the project.

25. Groundwater Remedial Action.

a. Within 30 days after the approval of the final design submittal, Settling Defendants shall submit to EPA and NJDEP, with a copy to the Settling Federal Agencies, a work plan for the performance of the Groundwater Remedial Action at the Site ("Groundwater Remedial Action Work Plan"). The Groundwater Remedial Action Work Plan shall provide for construction and implementation of the groundwater remedy as set forth in the Phase 2 ROD and achievement of the Groundwater Performance Standards, in accordance with this Consent Decree, the Phase 2 ROD, the Groundwater SOW, and the design plans and specifications developed in accordance with the Remedial Design Work Plan and approved by EPA. Upon its approval by EPA, after a reasonable opportunity for review and comment by NJDEP, the Groundwater Remedial Action Work Plan shall be incorporated into and become enforceable under this Consent Decree. At the same time as they submit the Groundwater Remedial Action Work Plan, Settling Defendants shall submit to EPA and NJDEP a Health and Safety Plan for field activities required by the Groundwater Remedial Action Work Plan which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Groundwater Remedial Action Work Plan shall include all requirements specified in the Groundwater SOW and shall include the following additional deliverables unless

otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) the schedule for completion of the Groundwater Remedial Action; (2) the schedule for developing and submitting other required Groundwater Remedial Action plans (i.e., Remedial Action Deliverable Schedule); (3) Site Management Plan; (4) methodology for implementation of the CQAPP; (5) a Groundwater Monitoring Plan; (6) methods for satisfying permitting requirements (including substantive requirements); (7) preliminary methodology for implementation of the O & M Plan; (8) methodology for the implementation of the Health and Safety/Contingency Plan; (9) a Construction Quality Control Plan (by constructor); (10) procedures and plan for the decontamination of equipment and the disposal of contaminated materials; (11) Final O & M Plan and Post-remediation Groundwater Monitoring Plan; and (12) methodology for the implementation of the community relations plan. The Groundwater Remedial Action Work Plan also shall include a schedule for implementation of all Groundwater Remedial Action tasks identified in the final design submittal and shall identify the initial formulation of the Settling Defendants' Groundwater Remedial Action Project Team (including, but not limited to, the Groundwater Supervising Contractor).

c. Upon approval of the Groundwater Remedial Action Work Plan by EPA, after a reasonable opportunity for review and comment by NJDEP, Settling Defendants shall implement the activities required under the Groundwater Remedial Action Work Plan. The Settling Defendants shall submit to EPA and NJDEP all plans, submittals, or other deliverables required under the approved Groundwater Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, after a reasonable opportunity for review and comment by NJDEP, Settling Defendants shall not commence physical Groundwater Remedial Action activities at the Site prior to approval of the Groundwater Remedial Action Work Plan.

26. The Settling Defendants shall continue to implement the Groundwater Remedial Action and Groundwater O & M, subject to the provisions of Paragraphs 19 and 20, until

the Groundwater Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree.

27. Modification of the Groundwater SOW or Related Work Plans.

a. If EPA determines, after a reasonable opportunity for review and comment by NJDEP, that modification to the work specified in the Groundwater SOW and/or in work plans developed pursuant to the Groundwater SOW is necessary to achieve and maintain the Groundwater Performance Standards or to carry out and maintain the effectiveness of the groundwater remedy set forth in the Phase 2 ROD, EPA may require that such modification be incorporated in the Groundwater SOW and/or such work plans, provided, however, that a modification may only be required pursuant to this Paragraph to the extent that it is consistent with the scope of the groundwater remedy selected in the Phase 2 ROD.

b. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XXI (Dispute Resolution), Paragraph 108 (record review). The Groundwater SOW and/or related work plans shall be modified in accordance with final resolution of the dispute.

c. Settling Defendants shall implement any work required by any modifications incorporated in the Groundwater SOW and/or in work plans developed pursuant to the Groundwater SOW in accordance with this Paragraph, subject to the provisions of Paragraphs 19 and 20.

d. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

28. Settling Defendants acknowledge and agree that nothing in this Consent Decree, the Groundwater SOW or the Groundwater Remedial Design Work Plan or Groundwater Remedial Action Work Plan constitutes a warranty or representation of any kind by Plaintiffs that compliance with the work requirements set forth in the Groundwater SOW and the Work Plans will achieve the Groundwater Performance Standards.

29. Settling Defendants shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA and NJDEP Project Coordinators of such shipment of Waste Material. This notification, however, shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. The Settling Defendants shall include in the written notification the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. The Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendants following the award of the contract for Groundwater Remedial Action construction. The Settling Defendants shall provide the information required by Paragraph 29.a as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

D. Remedy Review

30. Periodic Review. Settling Defendants shall conduct and, together with the Settling Federal Agencies as provided in Section XXIX and subject to the provisions of Paragraph 37, shall finance, studies and investigations as requested by EPA in order to permit EPA to conduct reviews of whether the Groundwater Remedial Action is protective of human health and the environment at least every five years as required by Section 121(c) of CERCLA and any applicable regulations.

31. EPA Selection of Further Response Actions. If EPA determines, at any time, after a reasonable opportunity for review and comment by NJDEP, that the Groundwater Remedial

Action is not protective of human health and the environment, EPA may select further response actions for the Site in accordance with the requirements of CERCLA, the NCP or other relevant authority.

32. Opportunity To Comment. Settling Defendants, NJDEP, and, if required by Sections 113(k)(2) or 117 of CERCLA, the public, will be provided with an opportunity to comment on any further response actions proposed by EPA as a result of the review of the Groundwater Remedial Action conducted pursuant to Section 121(c) of CERCLA and to submit written comments for the record during the comment period.

33. Settling Defendants' Obligation To Perform Further Groundwater Response Actions. If EPA selects further groundwater response actions for the Site as a result of the review of the Groundwater Remedial Action conducted pursuant to Section 121(c) of CERCLA, Settling Defendants shall perform and, together with the Settling Federal Agencies as provided in Section XXIX and subject to the provisions of Paragraph 37, shall finance such further response actions to the extent that the reopener conditions in Paragraph 126 or Paragraph 127 (United States' reservations of liability based on unknown conditions or new information) are satisfied. Upon selection of any such further groundwater response actions (after the opportunity to comment described in Paragraph 32), and if the reopener conditions in Paragraph 126 or Paragraph 127 are satisfied, EPA shall so notify Settling Defendants (with a copy to NJDEP and the Settling Federal Agencies) and shall provide Settling Defendants with a reasonable opportunity to perform such response actions as part of the Groundwater Work pursuant to this Consent Decree. Settling Defendants may invoke the procedures set forth in Section XXI (Dispute Resolution) to dispute (1) EPA's determination that the reopener conditions of Paragraph 126 or Paragraph 127 of Section XXIII (Covenants Not To Sue by the United States and the State) are satisfied, (2) EPA's determination that the Groundwater Remedial Action is not protective of human health and the environment, or (3) EPA's selection of the further groundwater response actions. Disputes pertaining to whether the Groundwater Remedial Action is

protective or to EPA's selection of further groundwater response actions shall be resolved pursuant to Paragraph 108 (record review).

34. Submissions of Plans. If Settling Defendants are required to perform further groundwater response actions pursuant to Paragraph 33, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Paragraphs 23 through 26, with a copy to NJDEP, and shall implement the plan approved by EPA in accordance with the provisions of this Consent Decree.

E. Additional Groundwater Response Actions

35. In the event that EPA determines, after a reasonable opportunity for review and comment by NJDEP, that additional groundwater response actions are necessary to meet the Groundwater Performance Standards, and if such additional groundwater response actions cannot be required pursuant to Paragraphs 27 or 33, Settling Defendants shall perform and, together with the Settling Federal Agencies as provided in Section XXIX and subject to the provisions of Paragraph 37, shall finance such additional groundwater response actions. Upon selection of any such additional response action, EPA shall so notify Settling Defendants (with a copy to NJDEP and the Settling Federal Agencies), and shall provide Settling Defendants with a reasonable opportunity to perform such additional groundwater response actions as part of the Groundwater Work pursuant to this Consent Decree. Settling Defendants may invoke the procedures set forth in Section XXI (Dispute Resolution) to dispute EPA's determination that additional groundwater response actions are necessary to meet the Groundwater Performance Standards. Such a dispute shall be resolved pursuant to Paragraph 108 (record review).

36. If Settling Defendants are required to perform additional groundwater response actions pursuant to Paragraph 35, they shall submit a plan for such work to EPA for approval in accordance with the procedures set forth in Paragraphs 23 through 26, with a copy to

NJDEP, and shall implement the plan approved by EPA in accordance with the provisions of this Consent Decree.

37. If, at the time EPA determines that further or additional groundwater response actions pursuant to Paragraph 27, 33, or 35 are necessary, Settling Defendants have (1) submitted the Final Groundwater Costs Submission pursuant to Paragraph 64.1, or been deemed to have submitted the Final Groundwater Costs Submission pursuant to Paragraphs 19.j or 130.b, and (2) paid any amount due pursuant to Paragraph 22, then Settling Defendants shall not be obligated to perform such further or additional groundwater response actions unless EPA or NJDEP or both finance 100% of the costs of such further or additional groundwater response actions until the cumulative total of such costs equals the sum of the amount paid by Settling Defendants pursuant to Paragraph 22 and the amounts paid by Settling Federal Agencies pursuant to sub-Paragraphs 153.b(i)(1)(a) and 153.b(i)(2)(a). Thereafter, Settling Defendants shall perform, and together with the Settling Federal Agencies as provided in Section XXIX, shall finance 50% of the cost of any remaining further or additional groundwater response actions pursuant to the procedures set forth in sub-Paragraphs 21.c through 21.e. Settling Defendants shall have no obligation to perform such further or additional groundwater response actions unless and until EPA or NJDEP or both notify Settling Defendants that EPA or NJDEP or both will finance such costs to the extent set forth in this Paragraph within six months of the selection of such further or additional groundwater response actions.

IX. PERFORMANCE OF THE WETLANDS WORK

A. Selection of the Wetlands Remedy

38. As provided in Section 121 of CERCLA, 42 U.S.C. § 9621, and the NCP, and in a manner consistent with Section 117 of CERCLA, 42 U.S.C. § 9617, EPA shall select the wetlands remedy for the Site, and shall issue a Phase 2 ROD setting forth EPA's selected wetlands remedy, if any.

a. Phase 2 Proposed Plan. Consistent with Section 117(a) of CERCLA, 42 U.S.C. § 9617(a), prior to issuing the Phase 2 ROD setting forth EPA's selected wetlands remedy, EPA shall issue the Phase 2 Proposed Plan for the wetlands remedy.

b. Phase 2 ROD. Consistent with the provisions of CERCLA, including but not limited to EPA's obligations under Sections 117 and 121 of CERCLA, EPA shall issue the Phase 2 ROD setting forth EPA's decision regarding the wetlands remedy for the Site. If Settling Defendants invoke the provisions of Paragraph 39, EPA shall issue the Phase 2 ROD only after completion, pursuant to Paragraph 39, of all discussion and meetings that Settling Defendants initiated within the time limits required by Paragraph 39.

39. Discussion and Meetings with Settling Defendants Regarding the Phase 2 Proposed Plan. EPA shall immediately provide a copy of the Phase 2 Proposed Plan to Settling Defendants, NJDEP, and the Settling Federal Agencies. After Settling Defendants have received the Phase 2 Proposed Plan, but before EPA's issuance of the Phase 2 ROD, Settling Defendants may invoke the provisions of this Paragraph with respect to any dispute, concern, or question relating to the Phase 2 Proposed Plan.

a. Settling Defendants shall first attempt to resolve any such dispute, concern or question through informal negotiations with EPA during a period not to exceed 14 days, commencing 7 days after the date the Settling Defendants receive the Phase 2 Proposed Plan.

b. In the event that informal negotiations do not resolve the dispute, concern or question, then within 14 days after the conclusion of the informal negotiation period Settling Defendants shall serve on EPA, with a copy to NJDEP and the Settling Federal Agencies, a written Statement of Position on the matter, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants, and concurrently EPA shall, after a reasonable opportunity for review and comment by NJDEP, serve on Settling Defendants, with a copy to NJDEP and the Settling Federal Agencies, its Statement of

Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. If so requested in Settling Defendants' Statement of Position, within 10 days after the exchange of Statements of Position, the Deputy Regional Administrator, EPA Region 2, and the Director of the Emergency and Remedial Response Division, EPA Region 2, shall meet with representatives of the Settling Defendants, and their respective counsel in an effort to resolve the dispute. Within 5 days after the meeting, EPA shall notify the Settling Defendants in writing, with a copy to NJDEP and the Settling Federal Agencies, of EPA's preliminary response to the disputes, concerns, or questions raised in the Settling Defendants' Statement of Position. At the request of EPA or the Settling Defendants, a second meeting with the above personnel shall be held within 15 days of the first meeting, provided that the request for a second meeting is made no later than 10 days after the first meeting. NJDEP and Settling Federal Agencies will be given an opportunity to attend both meetings.

c. The provisions of this Paragraph shall be the sole mechanism for the resolution of disputes concerning the proposed Phase 2 wetlands remedy as set forth in the Phase 2 Proposed Plan, and any such dispute shall not be subject to judicial review or to the provisions of Section XXI (Dispute Resolution). Nothing in this Consent Decree shall be construed to allow any dispute by Settling Defendants regarding the validity of the provisions of the Phase 2 ROD after EPA has issued the Phase 2 ROD. Nothing in this Consent Decree shall be construed to limit any Settling Defendant's rights to public participation under Section 117 of CERCLA, nor shall anything in this Consent Decree be construed to limit the rights of the State to participate in the selection of remedial actions under Section 121 of CERCLA and the NCP. The provisions of this Paragraph shall only be available to Settling Defendants if EPA, in its sole discretion, issues separate Phase 2 Proposed Plans for the groundwater remedy and the wetlands remedy.

40. After issuance of the Phase 2 ROD, and if the Phase 2 ROD does not select a no action remedy for wetlands, EPA, after a reasonable opportunity for review and comment by NJDEP, shall elect whether or not Settling Defendants shall perform the wetlands remedy for the Site.

a. If EPA elects not to have Settling Defendants perform the wetlands remedy for the Site, EPA shall so notify Settling Defendants, Settling Federal Agencies, and NJDEP. Within 30 days of receiving such notification, Settling Federal Agencies shall pay to the Hazardous Substance Superfund 90% of the Wetlands Funding Amount and shall pay to NJDEP 10% of the Wetlands Funding Amount. Payments to NJDEP pursuant to this Paragraph shall be made in accordance with the payment procedures specified in sub-Paragraph 22.c.

b. If EPA elects to have Settling Defendants perform the wetlands remedy for the Site, EPA shall issue to Settling Defendants a draft Wetlands SOW. Settling Defendants may provide EPA, with a copy to NJDEP, with comments on the draft Wetlands SOW during a time period to be specified by EPA. EPA shall consider any comments received and, after opportunity for review and comment by NJDEP, shall issue to Settling Defendants a final Wetlands SOW, which shall be incorporated into and shall become enforceable as a part of this Consent Decree. Along with issuance of the final Wetlands SOW, EPA shall also respond to all significant comments raised by Settling Defendants.

B. Performance of Wetlands Work

41. a. If, after a reasonable opportunity for review and comment by NJDEP, EPA so elects, Settling Defendants shall perform the Wetlands Work as provided for in this Section IX.

b. If the suspension conditions set forth in sub-Paragraph 41.c occur at any time during Settling Defendants' performance of the Wetlands Work, then, subject to the limitations set forth in sub-Paragraph 41.e, Settling Defendants' obligation to perform, or to finance the performance of, the Wetlands Work (except for progress reports pursuant to Paragraph 63) shall be suspended

from the date suspension conditions arise until the date that suspension conditions are terminated as set forth in sub-Paragraph 41.i.

c. "Suspension conditions" with respect to the Wetlands Work shall be deemed to exist if at any given time any costs or portions of any costs that were reported as Allowable Wetlands Costs on one or more Monthly Cost Submissions either:

(i) have not been reimbursed to the extent required by Paragraph 150 within 90 days after the date such reimbursement was due under Paragraph 150 and have not been disallowed pursuant to Paragraph 64 or 150; or

(ii) are required to be reimbursed to Settling Defendants pursuant to the procedures set forth in Paragraph 43 and have not been disallowed and have not been reimbursed within 90 days of the date such reimbursement was due in accordance with Paragraph 43.b; or

(iii) have not been reimbursed to the extent required by Paragraph 151.e within 30 days after the date that the United States receives the notice required by Paragraph 64.i.

d. In the event that any reimbursement for reported Allowable Wetlands Costs is not made when due pursuant to Paragraph 43 or 150 or 151.e, Settling Defendants shall so notify the United States, NJDEP, and the agent designated by Settling Federal Agencies pursuant to Paragraph 148.b, in writing, no later than (i) seven days after the reimbursement was due pursuant to Paragraph 43 or 150 or (ii) the first working day after the reimbursement was due pursuant to sub-Paragraph 151.e. Settling Defendants shall also orally notify the EPA and NJDEP Project Coordinators or Alternate Project Coordinators both (A) within seven days after the reimbursement was due pursuant to Paragraph 43 or 150 and (B) on the first working day after reimbursement was due pursuant to sub-Paragraph 151.e. If the written notice by Settling Defendants so requests, within 21 days of receiving the notice representatives of EPA, NJDEP and/or Settling Federal Agencies shall discuss with representatives of Settling Defendants the reason reimbursement was not made when due and/or

any proposed changes in the schedule for or performance of the Wetlands Work in light of the late reimbursement.

e. In the event that Settling Defendants have begun but not completed any emergency response action under Paragraph 91 at the time suspension conditions arise, Settling Defendants shall complete all appropriate action to prevent, abate, or minimize the release or threat of release involved notwithstanding the existence of suspension conditions. If suspension conditions arise, Settling Defendants may suspend performance of the Wetlands Work only in an orderly manner that does not create conditions that constitute an emergency situation or may present an immediate threat to public health or welfare or the environment such that emergency response would be required pursuant to Section XVII.

f. If Settling Defendants suspend performance of the Wetlands Work during suspension conditions, EPA may, in its sole discretion (after a reasonable opportunity for review and comment by NJDEP) and after notice to Settling Defendants, NJDEP, and the Settling Federal Agencies, assume performance of all or a portion of the Wetlands Work during suspension conditions. EPA shall not make the determinations in sub-Paragraph 130.c during the existence of suspension conditions pursuant to this Paragraph. Settling Defendants shall not be liable for any stipulated penalty under Paragraph 116 as a result of EPA's assumption of performance of all or a portion of the Wetlands Work during the existence of suspension conditions pursuant to this Paragraph.

g. Stipulated penalties under Paragraphs 111, 112, or 113 shall not arise as a result of Settling Defendants' failure to perform the Wetlands Work (except Paragraph 63) during suspension conditions. Stipulated penalties under Paragraphs 111, 112, or 113 that arose prior to suspension conditions for failure to perform the Wetlands Work are not waived but shall not continue to accrue while suspension conditions exist.

h. The existence of suspension conditions shall not alter Settling Defendants' obligations as set forth in this Consent Decree to make any payment of money to the Hazardous Substance Superfund, NJDEP, or the Settling Federal Agencies that became due before, or may become due during, suspension conditions, including without limitation payments due under Paragraphs 9, 10, 14, 22, 91, 94, 96, 98, 111 through 116, and 151. Except as provided in sub-Paragraph 41.g, the existence of suspension conditions shall not alter Settling Defendants' liability for stipulated penalties pursuant to Section XXII. The existence of suspension conditions shall not stay any dispute resolution procedure pursuant to Paragraphs 12, 17, or 39, or Section XXI, regardless of when the dispute arose. The existence of suspension conditions shall not alter the obligations of the Settling Federal Agencies under Section XXIX, of Settling State Agencies under Section XXX, or of EPA or NJDEP or both under Paragraphs 21.c or 43.b, to make any payment that became due before, or that may become due during, suspension conditions.

i. Suspension conditions shall terminate immediately upon receipt by Settling Defendants of all past due reimbursements and Interest thereon, and Settling Defendants shall so notify the United States and NJDEP within 10 days of receipt of such payments. The termination of suspension conditions shall reinstate Settling Defendants' obligation to perform, and, together with the Settling Federal Agencies, to finance the Wetlands Work. Within 10 days of notice to the United States and NJDEP, EPA and the Settling Defendants shall meet to plan Settling Defendants' resumption of the Wetlands Work in light of the changed circumstances associated with the suspension and (if applicable) the transfer of responsibility for the Wetlands Work from EPA to Settling Defendants. NJDEP shall be given the opportunity to attend the meeting. After such meeting and after a reasonable opportunity for review and comment by NJDEP, EPA will make such modifications to the schedule for completion of the Wetlands Work as are necessary and reasonable in light of the duration of suspension conditions, any disruption of the contractual relationship between the Settling Defendants and their contractors as a result of suspension conditions, the assumption (if any) of

Wetlands Work performance by EPA during the existence of suspension conditions, the need for a startup period, and other conditions.

j. If suspension conditions with respect to the Wetlands Work exist for any 24 consecutive months, Settling Defendants' obligation to perform, or to finance the performance of, the Wetlands Work shall cease and shall not be subject to reinstatement upon payment of all past due costs and Interest thereon. If Settling Defendants' obligation to perform the Wetlands Work ceases pursuant to this sub-Paragraph, then for purposes of Paragraph 154 the last Monthly Cost Submission submitted prior to such cessation of the Wetlands Work shall be deemed the Final Wetlands Cost Submission pursuant to sub-Paragraph 64.m.

k. Costs incurred by the United States in performing the Wetlands Work during suspension conditions pursuant to sub-Paragraph 41.f shall be considered Future Response Costs that Settling Defendants shall pay, except as otherwise provided in this sub-Paragraph, pursuant to Section XVIII (Reimbursement of Future Response Costs). Costs incurred by NJDEP related to the Wetlands Work pursuant to sub-Paragraph 41.f shall be considered State Future Response Costs that Settling Defendants shall pay, except as otherwise provided in this sub-Paragraph, pursuant to Section XVIII (Reimbursement of Future Response Costs). However, EPA and NJDEP shall not send Settling Defendants a bill requiring payment of costs incurred pursuant to sub-Paragraph 41.f until after suspension conditions have terminated pursuant to sub-Paragraph 41.i. EPA and NJDEP shall not send a bill under this sub-Paragraph after Settling Defendants' obligation to perform the Wetlands Work has ceased pursuant to sub-Paragraph 41.j.

l. Nothing in this Paragraph shall be deemed to prohibit Settling Defendants from voluntarily continuing to perform the Wetlands Work during suspension conditions.

C. Financing the Performance of the Wetlands Work

42. a. Settling Defendants shall, together with the Settling Federal Agencies as provided in Section XXIX, finance the Wetlands Work until EPA certifies, pursuant to Paragraph

90 that the Wetlands Work is complete, or until the Settling Defendants have incurred Allowable Wetlands Costs equalling the Wetlands Funding Amount, whichever occurs first.

b. After Settling Defendants have incurred Allowable Wetlands Costs equalling the Wetlands Funding Amount, if (i) EPA has not yet certified that the Wetlands Work is complete and (ii) EPA or NJDEP or both elect, in their sole discretion, to finance 100% of the cost of any remaining Wetlands Work pursuant to Paragraph 43, then Settling Defendants shall be required to continue performing the Wetlands Work. If neither EPA nor NJDEP notifies Settling Defendants that EPA or NJDEP or both will finance 100% of the cost of any remaining Wetlands Work pursuant to Paragraph 43, then Settling Defendants shall have no further obligation to perform or finance any Wetlands Work.

43. Procedures for EPA/NJDEP Financing If Allowable Wetlands Costs Exceed Wetlands Funding Amount.

a. Twelve months prior to the projected date that Settling Defendants will have incurred Allowable Wetlands Costs equalling the Wetlands Funding Amount, Settling Defendants shall so notify the United States and NJDEP in writing. No later than 3 months prior to the projected date specified in such notice, EPA or NJDEP or both shall notify the Settling Defendants in writing, with a copy to the Settling Federal Agencies, whether or not EPA or NJDEP or both will finance 100% of the cost of any of the remaining Wetlands Work above the Wetlands Funding Amount.

b. If EPA or NJDEP or both elect, in their sole discretion, to finance 100% of any such work, the notice required by Paragraph 43.a shall include (1) a statement of the legal authority for such financing, (2) a statement of the amount of such financing that is available, (3) a statement of the mechanism, consistent with then-existing laws and regulations, to be used by EPA or NJDEP or both for providing such financing as expeditiously as reasonably practicable to the Settling Defendants, and (4) any limitations on the time period for which such financing is available, such as a particular fiscal year or portion thereof.

c. After EPA or NJDEP or both have begun to provide funds to Settling Defendants pursuant to Paragraph 43.b, then nine months prior to the projected date that Settling Defendants will have exhausted the amount of such funds or the time during which such funds are available, Settling Defendants shall so notify the United States and NJDEP in writing. No later than three months prior to the projected date specified in such notice, EPA or NJDEP or both shall notify the Settling Defendants, with a copy to the Settling Federal Agencies, subject to the procedures set forth in sub-Paragraph 43.b, whether or not EPA or NJDEP or both will continue to finance the cost of any remaining Wetlands Work.

d. Provided that Settling Defendants have received a notice required by sub-Paragraph 43.a or 43.c that satisfies the requirements of sub-Paragraph 43.b, then, subject to the provisions of Paragraph 41, Settling Defendants shall continue to perform the remaining Wetlands Work after expending the Wetlands Funding Amount, in accordance with sub-Paragraph 42.b, until the amount of EPA and/or NJDEP funding set forth in such notice is exhausted.

e. Nothing in this Consent Decree shall be interpreted as a commitment or requirement that the United States on behalf of EPA undertake any obligation or make any payment in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law. Nothing in this Consent Decree shall be interpreted as a commitment or requirement that the State undertake any obligation or make any payment in contravention of N.J. Const. art 8, §2, ¶2, or any other applicable provision of law.

44. Selection of Wetlands Supervising Contractor.

a. All aspects of the Wetlands Work to be performed by Settling Defendants pursuant to this Section and Sections X (Quality Assurance, Sampling and Data Analysis) and XVII (Emergency Response) of this Consent Decree shall be under the direction and supervision of the Wetlands Supervising Contractor. The selection of the Wetlands Supervising Contractor shall be subject to disapproval by EPA after a reasonable opportunity for review and comment by NJDEP.

Within 10 days after the issuance of the Wetlands SOW, Settling Defendants shall notify EPA and NJDEP, with a copy to the Settling Federal Agencies, in writing of the name, title, and qualifications of any contractor proposed to be the Supervising Contractor for Wetlands Work. EPA will issue a notice of disapproval or an authorization to proceed. If at any time thereafter, Settling Defendants propose to change a Wetlands Supervising Contractor, Settling Defendants shall give such notice to EPA and NJDEP and must obtain an authorization to proceed from EPA, after a reasonable opportunity for review and comment by NJDEP, before the new Wetlands Supervising Contractor performs, directs, or supervises any Wetlands Work under this Consent Decree.

b. If EPA disapproves a proposed Wetlands Supervising Contractor, EPA will notify Settling Defendants in writing. Settling Defendants shall submit to EPA and NJDEP a list of contractors, including the qualifications of each contractor, that would be acceptable to them within 30 days of receipt of EPA's disapproval of the contractor previously proposed. EPA will provide written notice of the names of any contractor(s) that it disapproves and an authorization to proceed with respect to any of the other contractors. Settling Defendants may select any contractor from that list that is not disapproved and shall notify EPA and NJDEP of the name of the contractor selected, within 21 days of EPA's authorization to proceed.

c. If EPA fails to provide written notice of its authorization to proceed or disapproval as provided in this Paragraph and this failure prevents the Settling Defendants from meeting one or more deadlines in a plan approved by EPA pursuant to this Consent Decree, Settling Defendants may seek relief under the provisions of Section XX (Force Majeure) hereof.

45. Remedial Design.

a. Within 30 days after EPA's issuance of an authorization to proceed pursuant to Paragraph 44, Settling Defendants shall submit to EPA and NJDEP a work plan for the design of the Wetlands Remedial Action ("Wetlands Remedial Design Work Plan"). The Wetlands Remedial Design Work Plan shall provide for design of the wetlands remedy as set forth in the Phase 2 ROD,

in accordance with the Wetlands SOW, and for achievement of the Wetlands Performance Standards and other requirements set forth in the Phase 2 ROD, this Consent Decree and the Wetlands SOW. Upon approval by EPA, after a reasonable opportunity for review and comment by NJDEP, of the Wetlands Remedial Design Work Plan, the Plan shall be incorporated into and become enforceable under this Consent Decree. Within 30 days after EPA's issuance of an authorization to proceed, the Settling Defendants shall submit to EPA and NJDEP a Health and Safety Plan for field design activities which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Wetlands Remedial Design Work Plan shall include plans and schedules for implementation of all remedial design and pre-design tasks identified in the Wetlands SOW, including, but not limited to, the following additional deliverables unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) Wetlands Remedial Design Schedule; (2) Site Management Plan; (3) Sampling, Analysis, and Monitoring Plan; (4) Quality Assurance Project Plan; (5) Data Evaluation Summary Report; (6) Health and Safety Plan/Contingency Plan; (7) Community Relations Plan; (8) Wetlands Monitoring and Long-Term Wetlands Monitoring Plans; (9) Wetlands Modelling Plan; (10) Wetlands Treatability Study Plan; (11) Acquisition of Access and Approvals Plan; (12) Preliminary Design; (13) Intermediate Design; (14) Pre-final Design and Final Design; (15) Preliminary O & M Plan; (16) Draft Schedules for Remedial Action, O & M, and Post-remediation Monitoring. In addition, the Wetlands Remedial Design Work Plan shall include a schedule for completion of the Wetlands Remedial Action Work Plan.

c. Upon approval of the Wetlands Remedial Design Work Plan by EPA, after a reasonable opportunity for review and comment by NJDEP, and submittal of the Health and Safety Plan for all field activities to EPA and NJDEP, Settling Defendants shall implement the Wetlands Remedial Design Work Plan. The Settling Defendants shall submit to EPA and NJDEP all plans,

submittals and other deliverables required under the approved Wetlands Remedial Design Work Plan in accordance with the approved schedule for review and approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Defendants shall not commence further Wetlands Remedial Design activities at the Site prior to approval of the Wetlands Remedial Design Work Plan.

d. The preliminary design submittal shall include, at a minimum, the following unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) design criteria; (2) results of treatability studies; (3) results of additional field sampling and pre-design work; (4) project delivery strategy; (5) preliminary plans, drawings and sketches; (6) required specifications in outline form; (7) preliminary construction schedule; and (8) preliminary cost estimates.

e. The intermediate design submittal, if required by EPA or if independently submitted by the Settling Defendants, shall be a continuation and expansion of the preliminary design. Any value engineering proposals must be identified and evaluated in this submittal.

f. The pre-final/final design submittal shall include, at a minimum, the following unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) final plans and specifications; (2) Operation and Maintenance Plan; (3) Construction Quality Assurance Project Plan (CQAPP); (4) Field Sampling Plan (directed at measuring progress towards meeting Performance Standards); and (5) Contingency Plans. The CQAPP, which shall detail the approach to quality assurance during construction activities at the Site, shall specify a quality assurance official ("QA Official"), independent of the Wetlands Supervising Contractor, to conduct a quality assurance program during the construction phase of the project.

46. Wetlands Remedial Action.

a. Within 30 days after the approval of the final design submittal, Settling Defendants shall submit to EPA and NJDEP a work plan for the performance of the Wetlands

Remedial Action at the Site ("Wetlands Remedial Action Work Plan"). The Wetlands Remedial Action Work Plan shall provide for construction and implementation of the wetlands remedy as set forth in the Phase 2 ROD and achievement of the Wetlands Performance Standards, in accordance with this Consent Decree, the Phase 2 ROD, the Wetlands SOW, and the design plans and specifications developed in accordance with the Wetlands Remedial Design Work Plan and approved by EPA. Upon its approval by EPA, the Wetlands Remedial Action Work Plan shall be incorporated into and become enforceable under this Consent Decree. At the same time as they submit the Wetlands Action Work Plan, Settling Defendants shall submit to EPA and NJDEP a Health and Safety Plan for field activities required by the Wetlands Action Work Plan which conforms to the applicable Occupational Safety and Health Administration and EPA requirements including, but not limited to, 29 C.F.R. § 1910.120.

b. The Wetlands Remedial Action Work Plan shall include all requirements specified in the Wetlands SOW and shall include the following additional deliverables unless otherwise specified in writing by EPA, after a reasonable opportunity for review and comment by NJDEP: (1) the schedule for completion of the Wetlands Remedial Action; (2) the schedule for developing and submitting other required Wetlands Remedial Action plans (i.e., Remedial Action Deliverable Schedule); (3) Site Management Plan; (4) methodology for implementation of the CQAPP; (5) a Wetlands Monitoring Plan; (6) methods for satisfying permitting requirements (including substantive requirements); (7) preliminary methodology for implementation of the O & M Plan; (8) methodology for the implementation of the Health and Safety/Contingency Plan; (9) a Construction Quality Control Plan (by constructor); (10) procedures and plan for the decontamination of equipment and the disposal of contaminated materials; (11) Final O & M Plan and Post-remediation Wetlands Monitoring Plan; and (12) methodology for the implementation of the community relations plan. The Wetlands Remedial Action Work Plan also shall include a schedule for implementation of all Wetlands Remedial Action tasks identified in the final design submittal and

shall identify the initial formulation of the Settling Defendants' Wetlands Remedial Action Project Team (including, but not limited to, the Wetlands Supervising Contractor).

c. Upon approval of the Wetlands Remedial Action Work Plan by EPA, after a reasonable opportunity for review and comment by NJDEP, Settling Defendants shall implement the activities required under the Wetlands Remedial Action Work Plan. The Settling Defendants shall submit to EPA and NJDEP all plans, submittals, or other deliverables required under the approved Wetlands Remedial Action Work Plan in accordance with the approved schedule for review and approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions). Unless otherwise directed by EPA, Settling Defendants shall not commence physical Wetlands Remedial Action activities at the Site prior to approval of the Wetlands Remedial Action Work Plan.

47. The Settling Defendants shall continue to implement the Wetlands Remedial Action and Wetlands O & M, if any and subject to the provisions of Paragraphs 41 and 42, until the Wetlands Performance Standards are achieved and for so long thereafter as is otherwise required under this Consent Decree.

48. Modification of the Wetlands SOW or Related Work Plans.

a. If EPA determines, after a reasonable opportunity for review and comment by NJDEP, that modification to the work specified in the Wetlands SOW and/or in work plans developed pursuant to the Wetlands SOW is necessary to achieve and maintain the Wetlands Performance Standards or to carry out and maintain the effectiveness of the wetlands remedy set forth in the Phase 2 ROD, EPA may require that such modification be incorporated in the Wetlands SOW and/or such work plans, provided, however, that a modification may only be required pursuant to this Paragraph to the extent that it is consistent with the scope of the wetlands remedy selected in the Phase 2 ROD.

b. If Settling Defendants object to any modification determined by EPA to be necessary pursuant to this Paragraph, they may seek dispute resolution pursuant to Section XXI

(Dispute Resolution), Paragraph 108 (record review). The Wetlands SOW and/or related work plans shall be modified in accordance with final resolution of the dispute.

c. Settling Defendants shall implement any work required by any modifications incorporated in the Wetlands SOW and/or in work plans developed pursuant to the Wetlands SOW in accordance with this Paragraph, subject to the provisions of Paragraphs 41 and 42.

d. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Consent Decree.

49. Settling Defendants acknowledge and agree that nothing in this Consent Decree, the Wetlands SOW or the Wetlands Remedial Design Work Plan or Wetlands Remedial Action Work Plan constitutes a warranty or representation of any kind by Plaintiffs that compliance with the work requirements set forth in the Wetlands SOW and the Work Plans will achieve the Wetlands Performance Standards.

50. Settling Defendants shall, prior to any off-Site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to the EPA and NJDEP Project Coordinators of such shipment of Waste Material. This notification, however, shall not apply to any off-Site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. The Settling Defendants shall include in the written notification the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. The Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by the Settling Defendants following the award of the contract for Wetlands Remedial Action construction. The Settling Defendants shall provide the information required by Paragraph 50.a as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

D. Remedy Review

51. Periodic Review. If EPA elects to have Settling Defendants perform the wetlands remedy pursuant to Paragraph 40, Settling Defendants shall conduct studies and investigations as requested by EPA in order to permit EPA to conduct reviews of whether the Wetlands Remedial Action is protective of human health and the environment at least every five years as required by Section 121(c) of CERCLA and any applicable regulations, subject to the provisions of Paragraph 41 and 42.

X. QUALITY ASSURANCE, SAMPLING, AND DATA ANALYSIS

52. Settling Defendants shall use quality assurance, quality control, and chain of custody procedures for all samples in accordance with EPA's "Draft Final EPA Requirements for Quality Assurance Project Plans for Environmental Data Operations," July 1993 (EPA QA/R-5); "Interim Final Guidance for Quality Assurance Project Plans," September 1994 (EPA QA/G-5); "Guidance for the Data Quality Objectives Process," (EPA QA/G-4); "EPA NEIC Policies and Procedures Manual," May 1978, revised November 1984, (EPA 330/9-78-001-R); and subsequent amendments to such guidelines upon notification by EPA to Settling Defendants of such amendment. Amended guidelines shall apply only to procedures conducted after such notification. Prior to the commencement of any monitoring project under this Consent Decree for the Groundwater Remedial Action and the Wetlands Remedial Action, Settling Defendants shall submit to EPA for approval, after a reasonable opportunity for review and comment by NJDEP, a Quality Assurance Project Plan ("QAPP") to EPA and NJDEP that is consistent with the Groundwater SOW and the Wetlands SOW, the NCP and applicable guidance documents and policies (as provided above). The Parties agree that

validated sampling data generated in accordance with the QAPP(s) and reviewed and approved by EPA or NJDEP shall be admissible as evidence, without objection, in any proceeding under this Consent Decree, provided that such data are relevant to the proceeding. Settling Defendants shall ensure that EPA and NJDEP personnel and their authorized representatives are allowed access at reasonable times to all laboratories utilized by Settling Defendants in implementing this Consent Decree. In addition, Settling Defendants shall ensure that such laboratories shall analyze all samples submitted by EPA or NJDEP, as appropriate, pursuant to the QAPP for quality assurance monitoring. Settling Defendants shall ensure that the laboratories they utilize for the analysis of samples taken pursuant to this Decree perform all analyses according to accepted EPA methods. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Inorganic Analysis" and the "Contract Lab Program Statement of Work for Organic Analysis," dated February 1988, and any amendments made thereto during the course of the implementation of this Decree. Settling Defendants shall ensure that all laboratories they use for analysis of samples taken pursuant to this Consent Decree participate in an EPA or EPA-equivalent QA/QC program.

53. Upon request, the Settling Defendants shall allow split or duplicate samples to be taken by EPA and NJDEP or their authorized representatives. Settling Defendants shall notify EPA and NJDEP not less than 21 days in advance of any sample collection activity unless shorter notice is agreed to by EPA, after a reasonable opportunity for review and comment by NJDEP. In addition, EPA and NJDEP shall have the right to take any additional samples that EPA or NJDEP deem necessary, upon 7 days notification to Settling Defendants. Upon request, Plaintiffs shall allow the Settling Defendants to take split or duplicate samples of any samples Plaintiffs take as part of the Plaintiffs' oversight of the Settling Defendants' implementation of the Groundwater Work and the Wetlands Work.

54. Settling Defendants shall submit to EPA twelve (12) copies (unless otherwise directed by EPA) and to NJDEP three (3) copies of the results of all sampling and/or tests or other data obtained or generated by or on behalf of Settling Defendants with respect to the Site and/or the implementation of this Consent Decree unless EPA agrees otherwise.

55. Notwithstanding any provision of this Consent Decree, the United States and the State hereby retain all of their information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, the Spill Act, and any other applicable statutes or regulations.

XI. ACCESS AND INSTITUTIONAL CONTROLS

56. Commencing upon the date of lodging of this Consent Decree, the Settling Defendants agree to provide the United States, the State, and their representatives, including EPA, NJDEP, and their contractors, access at all reasonable times to the Site and any other property to which access is required for the implementation of this Consent Decree, to the extent access to the property is controlled by Settling Defendants, for the purposes of conducting any activity related to this Consent Decree including, but not limited to:

- a. Monitoring the Phase 2 RI/FS, the Groundwater Work and the Wetlands Work;
- b. Verifying any data or information submitted to the United States and the State;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;
- e. Assessing the need for, planning, or implementing additional response actions at or near the Site;
- f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents consistent with Section XXVI (Access to Information); and

g. Assessing Settling Defendants' compliance with this Consent Decree.

57. To the extent that the Site or any other property to which access is required for the implementation of this Consent Decree is owned or controlled by persons other than Settling Defendants, Settling Defendants shall use best efforts to secure from such persons access for Settling Defendants, as well as for the United States and the State and their representatives, including, but not limited to, their contractors, as necessary to effectuate this Consent Decree. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access, subject to the approval of the amount by EPA, after a reasonable opportunity for review and comment by NJDEP. If any access required to complete the Phase 2 RI/FS is not obtained within 45 days of the date of lodging of this Consent Decree, or if any access required to complete the Groundwater Work and the Wetlands Work is not obtained within 45 days of the issuance of the Phase 2 ROD, or if any access beyond that previously secured is not obtained within 45 days of the date EPA, after a reasonable opportunity for review and comment by NJDEP, notifies the Settling Defendants in writing that such additional access is necessary, Settling Defendants shall promptly notify the United States and the State in writing, and shall include in that notification a summary of the steps Settling Defendants have taken to attempt to obtain access. The United States or the State may, as it deems appropriate, assist Settling Defendants in obtaining access. Settling Defendants shall reimburse the United States or the State, in accordance with the procedures in Section XVIII (Reimbursement of Future Response Costs), below, for all costs and expenses incurred by the United States or the State in obtaining access.

58. Notwithstanding any provision of this Consent Decree, the United States and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA, the Spill Act, and any other applicable statute or regulations.

59. To the extent that the Site or any other property with respect to which Institutional Controls are required or are needed for the implementation of this Consent Decree is

owned or controlled by persons other than Settling Defendants, Settling Defendants shall use best efforts to secure or otherwise implement Institutional Controls, required pursuant to the Phase 2 ROD, the Groundwater SOW, the Wetlands SOW, amendments thereto, or as otherwise needed to implement the Groundwater Work and the Wetlands Work as required by this Consent Decree. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration for securing Institutional Controls. If any Institutional Controls required to complete the Groundwater Work or the Wetlands Work are not secured or otherwise implemented within the schedule(s) established pursuant to the Groundwater SOW or the Wetlands SOW, or within 45 days of the date EPA notifies the Settling Defendants in writing that Institutional Controls are necessary, Settling Defendants shall promptly notify the United States and the State in writing, and shall include in that notification a summary of the steps Settling Defendants have taken to attempt to secure or otherwise implement Institutional Controls. The United States or the State may, as it deems appropriate, assist Settling Defendants in securing or otherwise implementing Institutional Controls. Settling Defendants shall reimburse the United States or the State, in accordance with the procedures in Section XVIII (Reimbursement of Future Response Costs), below, for all costs and expenses incurred by the United States or the State in implementing Institutional Controls.

60. If EPA or NJDEP so requests, the Institutional Controls required under Paragraph 59 shall include, without limitation, the filing and recordation in the Registry of Deeds (or other appropriate land records office) of Gloucester County, New Jersey, of declaration(s) or other appropriate documents (hereinafter "declarations") by the owner of the property of covenants, conditions, restrictions, limitations, or easements regarding use of the property that run with the property, setting forth the Institutional Controls applicable thereto. If such declarations are requested, the form and content of the declarations shall be subject to the approval(s) of the EPA and/or NJDEP (whichever made the request), and the Settling Defendants shall submit draft declarations setting forth the Institutional Controls to EPA and NJDEP within thirty (30) days of any such request. Any

interest running to the United States in a declaration must be acquired in accordance with applicable law. With regard to requests made under this Paragraph, the Settling Defendants shall make best efforts to secure the prompt grant and recordation of the declarations, as approved by EPA and/or NJDEP (whichever made the request). Declaration(s) required to be filed pursuant to this Paragraph shall conform with local and State law in order to create an enforceable property restriction upon uses of or activities upon the property. If a question arises as to the enforceability of a declaration under State or local law after it has been filed, the United States and/or the State may require the Settling Defendants to secure an amended declaration that is enforceable under State and local law. Such amended declaration(s) shall be subject to the approval and filing requirements set forth in this Paragraph for the original declaration(s).

61. All declaration(s) filed pursuant to Paragraph 60 shall be enforceable by the United States, the State, and the Settling Defendants, and shall provide that these persons have the right to inspect the property to determine whether the declaration(s) are being complied with. In accordance with Section 104(j) of CERCLA, 42 U.S.C. § 9604(j), the United States' interest in the declaration(s) shall terminate at such time as EPA determines that the remedial action for the Site for which the Institutional Control is required has been completed. The State's interest in the declaration(s) shall terminate at such time as NJDEP determines that the Site has been remediated to such an extent so as to allow for its unrestricted use in accordance with N.J.S.A. 58:10B-1 et seq. If at any time after EPA has certified that the Groundwater Work and the Wetlands Work have been completed a question arises as to the enforceability of any declaration under State or local law, NJDEP shall be solely responsible for securing an amended declaration that is enforceable. Further, the costs incurred by NJDEP in securing the amended declaration shall not be considered to be State Future Response Costs.

62. Except as approved by EPA, after a reasonable opportunity for review and comment by NJDEP, Settling Defendants shall not use any portion of the Site in any manner that

EPA or NJDEP determines would adversely affect the integrity of any containment system, treatment system or monitoring system installed, or any Institutional Controls implemented pursuant to this Consent Decree.

XII. REPORTING REQUIREMENTS

63. In addition to any other requirement of this Consent Decree, Settling Defendants shall submit to EPA twelve (12) copies (unless otherwise directed by EPA), to NJDEP three (3) copies, and to the Settling Federal Agencies three (3) copies of written monthly progress reports that (a) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month; (b) include a summary of all results of sampling and tests and all other data received or generated by Settling Defendants or their contractors or agents in the previous month; (c) identify all work plans, plans and other deliverables required by this Consent Decree completed and submitted during the previous month; (d) describe all actions, including, but not limited to, data collection and implementation of work plans, which are scheduled for the next six weeks and provide other information relating to the progress of construction, including, but not limited to, critical path diagrams, Gantt charts and Pert charts; (e) include information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Groundwater Work or the Wetlands Work, and a description of efforts made to mitigate those delays or anticipated delays; (f) include any modifications to the work plans or other schedules that Settling Defendants have proposed to EPA or that have been approved by EPA; (g) describe all activities undertaken in support of the Community Relations Plan during the previous month and those to be undertaken in the next six weeks. Settling Defendants shall submit these progress reports to EPA, NJDEP, and the Settling Federal Agencies by the tenth day of every month following the lodging of this Consent Decree until Settling Defendants have received from EPA all certificates of completion of work as described in Section XVI (Certification of Completion). Beginning with the second progress report submitted after the effective date of this Consent Decree,

each monthly progress report shall include, in addition, a Monthly Cost Submission pursuant to Paragraph 64. If requested, Settling Defendants shall also provide briefings for EPA, NJDEP, and/or the Settling Federal Agencies to discuss the progress of the Groundwater Work and the Wetlands Work.

64. Cost Accounting and Review.

a. Settling Defendants shall establish and maintain accounting records as required by Appendix H, separately accounting for the costs incurred by Settling Defendants in performing the Phase 2 RI/FS, the Wetlands Work, and the Groundwater Work.

b. Each Monthly Cost Submission pursuant to Paragraph 63 shall include: (1) a separate accounting of all costs paid by Settling Defendants during the previous month for performance of the RI/FS, the Wetlands Work, and the Groundwater Work, showing the category and sub-category of Allowable Costs listed in Appendix G into which the cost falls; (2) a request for reimbursement from the Settling Federal Agencies identifying the costs for which reimbursement is sought; (3) the documentation required by Appendix H with respect to such costs; (4) figures showing cumulative totals for each category and sub-category of cost reported in the Monthly Cost Submissions to date, excluding costs which have previously been disallowed; (5) a projection of total remaining costs for the Phase 2 RI/FS, the Wetlands Work, and the Groundwater Work; (6) Time Value Adjustment calculations pursuant to Appendix D; (7) a projection of the total remaining unexpended Wetlands Funding Amount and Groundwater Funding Amount; (8) a statement of the remaining annual and cumulative Technical Committee Costs (as defined in Appendix G) that may be incurred without exceeding the limitations set forth in Appendix G; and (9) the following statement signed on behalf of the Settling Defendants by the agent designated by the Settling Defendants pursuant to Paragraph 148:

"To the best of my knowledge, I certify that the information contained in or accompanying this submission is true, accurate and complete. I further certify to the best of my knowledge and belief that all costs set forth in the Monthly Cost

Submission are Allowable Costs within the scope of Appendix G and not excluded by other provisions of the Consent Decree. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

c. For purposes of this Paragraph, Paragraphs 14 and 22, and Section XXIX, costs incurred for performance of the RI/FS, the Wetlands Work, and the Groundwater Work shall only include Allowable Costs set forth in Appendix G.

d. Allowable Phase 2 RI/FS Costs incurred prior to the effective date of the Consent Decree shall be included in the first Monthly Cost Submission and shall be separately identified and listed therein.

e. Every February 1 and August 1 after the effective date of the Consent Decree, the United States shall initiate a Semi-Annual Review of the Monthly Cost Submissions received in the two preceding calendar quarters. Each Semi-Annual Review shall be completed no later than six months after the date on which it is to be initiated. While conducting any Semi-Annual Review, the United States may request that Settling Defendants provide additional information relating to the Monthly Cost Submissions being reviewed. Within 30 days of a request by the United States for such additional information, Settling Defendants shall provide the requested information to EPA, the Settling Federal Agencies, and NJDEP.

f. Within thirty days after the completion of each Semi-Annual Review, the United States shall notify the Settling Defendants in writing whether any costs reported in the relevant Monthly Cost Submissions are disallowed. Costs may be disallowed only if they: (1) were not paid for by Settling Defendants; (2) are not supported by the documentation required by Appendix H; (3) are not Allowable Costs pursuant to Appendix G; (4) subject to sub-Paragraph 64.n, are excess costs resulting from Settling Defendants' procurement not in accordance with Appendix H; (5) subject to sub-Paragraph 64.n, are excess costs resulting from Settling Defendants' accounting not in accordance with Appendix H, Part I.B.2; or (6) are false or fraudulent as those terms are used in 31 U.S.C.

§ 3729. If only a portion of any particular cost satisfies one or more of the reported grounds for disallowance listed in the preceding sentence, then such portion shall be disallowed, but the remainder of the cost may not be disallowed. Any notification of disallowance pursuant to this sub-Paragraph shall specifically identify the cost item and the amount of the disallowed cost, and shall state which of the above-listed ground(s) for disallowance applies and shall explain the bases for disallowance. Within 30 days of receiving such notice, and notwithstanding the provisions of Paragraph 107.c., Settling Defendants may invoke the provisions of Section XXI (Dispute Resolution), Paragraph 109, to dispute any disallowance. If any disallowance is disputed, the United States may rely during dispute resolution upon any of the above-listed grounds for the disallowance and any explanation of the bases for disallowance, whether included in the notification of disallowance or not; a disallowance shall not be overturned during dispute resolution on the basis of any claimed omission or inadequacy of the notice of disallowance. Any cost or portion of a cost that is disallowed, if the disallowance is not disputed within the time permitted, shall be deemed "finally disallowed," and the disallowance shall not be subject to further review. Any cost or portion of a cost that is disallowed, if the disallowance is timely disputed, shall be deemed "finally disallowed" only after completion of all dispute resolution procedures that are initiated within the time limits required by Section XXI, and only to the extent the United States prevails on the dispute. Except as provided in sub-Paragraph 64.g, each cost not identified in writing as disallowed within the time required by this sub-Paragraph shall be deemed an Allowable Cost and shall not be subject to further review.

g. Notwithstanding sub-Paragraphs 64.e-f, upon written notice to Settling Defendants with a copy to NJDEP, the United States may disallow a cost or portion of a cost on the grounds that it is false or fraudulent as those terms are used in 31 U.S.C. § 3729, at any time within five years of the date of completion of the semi-annual review in which such cost was first reviewed. Any such notification of disallowance on the grounds that a cost or portion of a cost is false or fraudulent shall specifically identify the cost item and the amount of the disallowed cost, and shall

state with particularity the basis for a determination that such cost was false or fraudulent. Within 30 days of receiving notice that a cost or portion of a cost has been disallowed pursuant to this sub-Paragraph and notwithstanding the provisions of Paragraph 107.c., the Settling Defendants may invoke the provisions of Section XXI, Paragraph 109 (Dispute Resolution) to dispute the disallowance. Any cost or portion of a cost that is disallowed pursuant to this sub-Paragraph, if the disallowance is not disputed within the time permitted, shall be deemed "finally disallowed," and the disallowance shall not be subject to further review.

h. Any cost disallowance pursuant to sub-Paragraphs 64.e-g shall be re to the Monthly Cost Submission on which the disallowed cost was originally reported. To t necessary, all Monthly Cost Submissions submitted after receipt of notification of any such disallowance shall reflect the consequences of the disallowance. If any such disallowance is as a result of dispute resolution, such modification shall be retroactive to the date of the origi disallowance, and all Monthly Cost Submissions submitted after receipt of notification of any modification shall reflect the consequences of the modification.

i. If any cost disallowed pursuant to sub-Paragraphs 64.e-g or 150.e is allowed as a result of dispute resolution, then Settling Defendants shall so notify the United States, the agent designated by the Settling Federal Agencies pursuant to sub-Paragraph 148.b, and the State in writing once the dispute resolution is final and not subject to further review.

j. The second Monthly Cost Submission that Settling Defendants submit after EPA has approved the final deliverable required under the Phase 2 RI/FS Statement of Work shall be deemed the "Final Phase 2 RI/FS Cost Submission" and shall be identified as such. This submission shall identify the date that EPA approved the final deliverable under the Phase 2 RI/FS Statement of Work.

2
Cost
Disallowance

k. Four months before the month in which the Settling Defendants project that they will reach the Wetlands Funding Amount or the Groundwater Funding Amount, Settling Defendants shall separately so notify EPA, NJDEP, and the Settling Federal Agencies.

l. The second Monthly Cost Submission that Settling Defendants submit after Certification of Completion of the Groundwater Work shall be deemed the "Final Groundwater Cost Submission" and shall be identified as such. This submission shall identify the date of Certification of Completion of the Groundwater Work.

m. The second Monthly Cost Submission that Settling Defendants submit after Certification of Completion of the Wetlands Work shall be deemed the "Final Wetlands Cost Submission" and shall be identified as such. This submission shall identify the date of the Certification of Completion of the Wetlands Work.

n. Notwithstanding any other provision of this Paragraph 64, the provisions of this sub-Paragraph shall apply to any disallowance of a cost on the grounds set forth in sub-Paragraphs 64.f(4) or 64.f(5). If during any Semi-Annual Review the United States finds that Settling Defendants have violated the provisions of Appendix H, Part I, the United States, in writing, shall so notify Settling Defendants and explain the bases and available evidence for such a finding. Within 30 days of receiving such notice, and notwithstanding the provisions of Paragraph 107.c., Settling Defendants may, but are not required to, invoke the provisions of Section XXI (Dispute Resolution), Paragraph 109, to dispute such a finding. Settling Defendants shall notify the United States in writing at the time they submit the Monthly Cost Submission on which Settling Defendants report the last costs they expect to incur under any contract as to which the United States has made such a finding. The United States may disallow costs, if any, as a result of a violation of Appendix H only as part of the next Semi-Annual Review after receiving such notification. Such disallowance, if any, may apply to any costs incurred under the contract, regardless of when incurred, that satisfy the grounds for disallowance in sub-Paragraphs 64.f(4) or 64.f(5). Any notification of disallowance shall specifically

identify the amount of the disallowed cost, and shall explain the bases for the calculation of such amount. Within 30 days of receiving such notice, and notwithstanding the provisions of Paragraph 107.c., Settling Defendants may invoke the provisions of Section XXI (Dispute Resolution), Paragraph 109, to dispute the amount of such disallowance, and if not previously disputed, the finding of the violation of Appendix H. In the case of judicial review pursuant to Paragraph 109 in any dispute over the amount of such disallowance, the United States shall have the burden of going forward with evidence that the Settling Defendants incurred excess costs resulting from the procurement or accounting not in accordance with Appendix H, and if that burden is satisfied, then Settling Defendants shall bear the burden of proving by a preponderance of evidence that the amount disallowed does not reflect such excess costs.

65. The Settling Defendants shall notify EPA and NJDEP of any change in the schedule described in the monthly progress report for the performance of any activity, including, but not limited to, data collection and implementation of work plans, no later than 7 days prior to the performance of the activity.

66. Upon the occurrence of any event during performance of the Groundwater Work or the Wetlands Work that Settling Defendants are required to report pursuant to Section 103 of CERCLA or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), Settling Defendants shall within 24 hours of the onset of such event orally notify the EPA Project Coordinator or the Alternate EPA Project Coordinator (in the event of the unavailability of the EPA Project Coordinator), or, in the event that neither the EPA Project Coordinator or Alternate EPA Project Coordinator is available, the Emergency and Remedial Response Division, Region 2, United States Environmental Protection Agency. Settling Defendants shall also notify the NJDEP emergency hotline, (609) 292-7172, of the onset of such event. These reporting requirements are in addition to the reporting required by CERCLA Section 103 or EPCRA Section 304.

67. Within 20 days of the onset of such an event, Settling Defendants shall furnish to Plaintiffs a written report, signed by the Settling Defendants' Project Coordinator, setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within 30 days of the conclusion of such an event, Settling Defendants shall submit a report setting forth all actions taken in response thereto.

68. Settling Defendants shall submit to EPA twelve (12) copies (unless otherwise directed by EPA) of all plans, reports, and data required by the Groundwater SOW and the Wetlands SOW, the Groundwater Remedial Design Work Plan and the Wetlands Remedial Design Work Plan, the Groundwater Remedial Action Work Plan and the Wetlands Remedial Action Work Plan, or any other approved plans for the Groundwater Work and the Wetlands Work to EPA in accordance with the schedules set forth in such plans. Settling Defendants shall simultaneously submit three (3) copies of all such plans, reports and data to NJDEP.

69. All reports and other documents submitted by Settling Defendants to EPA (other than the monthly progress reports referred to above) which purport to document Settling Defendants' compliance with the terms of this Consent Decree shall be signed by an authorized representative of the Settling Defendants.

XIII. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

70. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, EPA, after a reasonable opportunity for review and comment by NJDEP, shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Settling Defendants modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Settling Defendants at least one notice of deficiency and an opportunity to cure within 14 days, except where EPA notifies the Settling Defendants in writing either that to do so

would cause serious disruption to the Phase 2 RI/FS, the Groundwater Work, or the Wetlands Work, or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

71. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 70(a), (b), or (c), Settling Defendants shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XXI (Dispute Resolution) with respect to the modifications or conditions made by EPA. In the event that EPA modifies the submission to cure deficiencies pursuant to Paragraph 70(c) and the submission has a material defect, EPA retains its right to seek stipulated penalties, as provided in Section XXII (Stipulated Penalties).

72. a. Upon receipt of a notice of disapproval pursuant to Paragraph 70(d), Settling Defendants shall, within 14 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Any stipulated penalties applicable to the submission, as provided in Section XXII, shall accrue during the 14-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 70 and 72.

b. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 70(d), Settling Defendants shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the submission. Implementation of any non-deficient portion of a submission shall not relieve Settling Defendants of any liability for stipulated penalties under Section XXII (Stipulated Penalties).

73. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by EPA, EPA may again require the Settling Defendants to correct the deficiencies, in accordance with the preceding Paragraphs. EPA also retains the right to modify or develop the plan,

report, or other item. Settling Defendants shall implement any such plan, report, or item as modified or developed by EPA, subject only to their right to invoke the procedures set forth in Section XXI (Dispute Resolution).

74. If upon resubmission, a plan, report, or item is disapproved or modified by EPA due to a material defect, Settling Defendants shall be deemed to have failed to submit such plan, report, or item timely and adequately unless the Settling Defendants invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution) and EPA's action is overturned pursuant to that Section. The provisions of Section XXI (Dispute Resolution) and Section XXII (Stipulated Penalties) shall govern the implementation of the Groundwater Work and the Wetlands Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is upheld, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XXII (Stipulated Penalties).

75. All plans, reports, and other items required to be submitted to EPA under this Consent Decree shall, upon approval or modification by EPA, be enforceable under this Consent Decree. In the event EPA approves or modifies a portion of a plan, report, or other item required to be submitted to EPA under this Consent Decree, the approved or modified portion shall be enforceable under this Consent Decree.

XIV. PROJECT COORDINATORS

76. Within 20 days of lodging this Consent Decree, Settling Defendants, NJDEP, and EPA shall notify each other, in writing, of the name, address, and telephone number of their respective designated Project Coordinators and Alternate Project Coordinators. If a Project Coordinator or Alternate Project Coordinator initially designated is changed, the identity of the successor will be given to the other Parties at least 5 working days before the changes occur, unless impracticable, but in no event later than the actual day the change is made. The Settling Defendants' Project Coordinator shall be subject to disapproval by EPA, after a reasonable opportunity for review

and comment by NJDEP, and shall have the technical expertise sufficient to oversee adequately all aspects of the Groundwater Work and the Wetlands Work. The Settling Defendants' Project Coordinator shall not be an attorney for any of the Settling Defendants in this matter. He or she may assign other representatives, including other contractors, to serve as a site representative for oversight of performance of daily operations during remedial activities.

77. Plaintiffs may designate other representatives, including, but not limited to, EPA and NJDEP employees, and federal and state contractors and consultants, to observe and monitor the progress of any activity undertaken pursuant to this Consent Decree. EPA's Project Coordinator and Alternate Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and an On-Scene Coordinator (OSC) by the National Contingency Plan, 40 C.F.R. Part 300. In addition, EPA's Project Coordinator or Alternate Project Coordinator shall have authority, consistent with the National Contingency Plan, to halt any Groundwater Work or Wetlands Work required by this Consent Decree and to take any necessary response action when she or he determines that conditions at the Site constitute an emergency situation or may present an immediate threat to public health or welfare or the environment due to release or threatened release of Waste Material.

78. EPA's Project Coordinator and the Settling Defendants' Project Coordinator will meet, at a minimum, once each month, unless EPA's Project Coordinator requests meetings on a greater or less frequent basis. NJDEP will be given an opportunity to attend the meetings.

XV. ASSURANCE OF ABILITY TO COMPLETE WORK

A. Financial Assurance for RI/FS

79. Within 30 days of entry of this Consent Decree, Settling Defendants shall establish and maintain financial security in the amount of \$633,000 in one or more of the following forms:

- (1) A surety bond guaranteeing performance of the Phase 2 RI/FS;

- (2) One or more irrevocable letters of credit equalling the amount specified above;
- (3) A trust fund;
- (4) A guarantee to perform the Phase 2 RI/FS by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Defendants; or
- (5) A demonstration that one or more of the Settling Defendants satisfy the requirements of 40 C.F.R. Part 264.143(f).

80. If the Settling Defendants seek to demonstrate the ability to complete the Phase 2 RI/FS through a guarantee by a third party pursuant to Paragraph 79(4) of this Consent Decree, Settling Defendants shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Settling Defendants seek to demonstrate their ability to complete the Phase 2 RI/FS by means of the financial test or the corporate guarantee pursuant to Paragraph 79(4) or (5), they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the effective date of this Consent Decree. In the event that EPA, after a reasonable opportunity for review and comment by NJDEP, determines at any time that the financial assurances provided pursuant to this Section are inadequate, Settling Defendants shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 79 of this Consent Decree. Settling Defendants' inability to demonstrate financial ability to complete the Phase 2 RI/FS shall not excuse performance of any activities required under this Consent Decree.

81. If Settling Defendants can show that the estimated cost to complete the Phase 2 RI/FS has diminished below \$3 million after entry of this Consent Decree, Settling Defendants may, on any anniversary date of entry of this Consent Decree, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section for the Phase 2 RI/FS

to 21.1% of the estimated cost of the remaining work to be performed to complete the Phase 2 RI/FS. Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon written approval by EPA, after a reasonable opportunity for review and comment by NJDEP. In the event of a dispute, Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

82. Settling Defendants may change the form of financial assurance provided under this Section for the Phase 2 RI/FS at any time, upon notice to and written approval by EPA, after a reasonable opportunity for review and comment by NJDEP, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

B. Financial Assurance for Groundwater Work

83. Within 30 days after issuance of the Phase 2 ROD, Settling Defendants shall establish and maintain financial security in the amount of \$17,935,000 in one or more of the following forms:

- (1) A surety bond guaranteeing performance of the Groundwater Work;
- (2) One or more irrevocable letters of credit equalling the total estimated costs of the Groundwater Work;
- (3) A trust fund;
- (4) A guarantee to perform the Groundwater Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of the Settling Defendants; or
- (5) A demonstration that one or more of the Settling Defendants satisfy the requirements of 40 C.F.R. Part 264.143(f).

84. If the Settling Defendants seek to demonstrate the ability to complete the Groundwater Work through a guarantee by a third party pursuant to Paragraph 83(4) of this Consent Decree, Settling Defendants shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143(f). If Settling Defendants seek to demonstrate their ability to complete the Groundwater Work by means of the financial test or the corporate guarantee pursuant to Paragraph 83(4) or (5), they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, on the anniversary of the effective date of this Consent Decree. In the event that EPA, after a reasonable opportunity for review and comment by NJDEP, determines at any time that the financial assurances provided pursuant to this Section are inadequate, Settling Defendants shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 83 of this Consent Decree. Settling Defendants' inability to demonstrate financial ability to complete the Groundwater Work shall not excuse performance of any activities required under this Consent Decree.

85. If Settling Defendants can show that the estimated cost to complete the Groundwater Work has diminished below \$85 million after entry of this Consent Decree, Settling Defendants may, on any anniversary date of issuance of the Phase 2 ROD, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section for the Groundwater Work to 21.1% of the estimated cost of the remaining work to be performed to complete the Groundwater Work. Settling Defendants shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA, after a reasonable opportunity for review and comment by NJDEP. In the event of a dispute, Settling Defendants may reduce the amount of the security in accordance with the final administrative or judicial decision resolving the dispute.

86. Settling Defendants may change the form of financial assurance provided under this Section for the Groundwater Work at any time, upon notice to and written approval by

EPA, after a reasonable opportunity for review and comment by NJDEP, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Defendants may change the form of the financial assurance only in accordance with the final administrative or judicial decision resolving the dispute.

XVI. CERTIFICATION OF COMPLETION

87. Completion of the Groundwater Remedial Action.

a. Within 90 days after Settling Defendants conclude that the Groundwater Remedial Action has been fully performed and the Groundwater Performance Standards have been attained, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA, and NJDEP. If, after the pre-certification inspection, the Settling Defendants still believe that the Groundwater Remedial Action has been fully performed and the Groundwater Performance Standards have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to NJDEP, pursuant to Section XIII (EPA Approval of Plans and Other Submissions) within 30 days of the inspection. In the report, a registered professional engineer and the Settling Defendants' Project Coordinator shall state that the Groundwater Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed by a responsible corporate official of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after completion of the pre-certification inspection and receipt and review of the written report, EPA, after reasonable opportunity for review and comment by NJDEP, determines that the Groundwater Remedial Action or any portion thereof has not been completed in accordance with this

Consent Decree or that the Groundwater Performance Standards have not been achieved, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Groundwater Remedial Action and achieve the Groundwater Performance Standards, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the scope of the remedy selected in the Phase 2 ROD and that the conditions of Paragraph 20 are satisfied. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the Groundwater SOW or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions), with a copy to NJDEP. Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph, subject to their right to invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution) and to the provisions of Paragraphs 19 and 20.

b. If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion and after a reasonable opportunity for review and comment by NJDEP, that the Groundwater Remedial Action has been fully performed in accordance with this Consent Decree and that the Groundwater Performance Standards have been achieved, EPA will so certify in writing to Settling Defendants. This certification shall constitute the Certification of Completion of the Groundwater Remedial Action for purposes of this Consent Decree, including, but not limited to, Section XXIII (Covenants Not to Sue by the United States and State). Certification of Completion of the Groundwater Remedial Action shall not affect Settling Defendants' obligations under this Consent Decree.

88. Completion of the Groundwater Work.

a. Within 90 days after Settling Defendants conclude that all phases of the Groundwater Work (including Groundwater O & M) have been fully performed, Settling Defendants

shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA, and NJDEP. If, after the pre-certification inspection, the Settling Defendants still believe that the Groundwater Work has been fully performed, Settling Defendants shall within 30 days of the inspection submit a written report by a registered professional engineer stating that the Groundwater Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a responsible corporate official of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after review of the written report, EPA, after reasonable opportunity for review and comment by NJDEP, determines that any portion of the Groundwater Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants pursuant to this Consent Decree to complete the Groundwater Work, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the scope of the remedy selected in the Phase 2 ROD and that the conditions of Paragraph 20 are satisfied. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the Groundwater SOW or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions), with a copy to NJDEP. Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution) and to the provisions of Paragraphs 19 and 20.

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Settling Defendants and after a reasonable opportunity for review and comment by NJDEP, that the Groundwater Work has been fully performed in accordance with this Consent Decree, EPA will so notify the Settling Defendants in writing.

89. Completion of the Wetlands Remedial Action.

a. Within 90 days after Settling Defendants conclude that the Wetlands Remedial Action has been fully performed and the Wetlands Performance Standards have been attained, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA, and NJDEP. If, after the pre-certification inspection, the Settling Defendants still believe that the Wetlands Remedial Action has been fully performed and the Wetlands Performance Standards have been attained, they shall submit a written report requesting certification to EPA for approval, with a copy to NJDEP, pursuant to Section XIII (EPA Approval of Plans and Other Submissions) within 30 days of the inspection. In the report, a registered professional engineer and the Settling Defendants' Project Coordinator shall state that the Wetlands Remedial Action has been completed in full satisfaction of the requirements of this Consent Decree. The written report shall include as-built drawings signed and stamped by a professional engineer. The report shall contain the following statement, signed by a responsible corporate official of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after completion of the pre-certification inspection and receipt and review of the written report, EPA, after reasonable opportunity for review and comment by NJDEP, determines that the Wetlands Remedial Action or any portion thereof has not been completed in accordance with this Consent Decree or that the Wetlands Performance Standards have not been achieved, EPA will notify Settling

Defendants in writing of the activities that must be undertaken by Settling Defendants to complete the Wetlands Remedial Action and achieve the Wetlands Performance Standards, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the scope of the remedy selected in the Phase 2 ROD, and that the conditions of Paragraph 42 are satisfied. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the Wetlands SOW or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions), with a copy to NJDEP. Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established pursuant to this Paragraph, subject to their right to invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution) and subject to the provisions of Paragraphs 41 and 42.

b. If EPA concludes, based on the initial or any subsequent report requesting Certification of Completion and after a reasonable opportunity for review and comment by NJDEP, that the Wetlands Remedial Action has been fully performed in accordance with this Consent Decree and that the Wetlands Performance Standards have been achieved, EPA will so certify in writing to Settling Defendants. This certification shall constitute the Certification of Completion of the Wetlands Remedial Action for purposes of this Consent Decree, including, but not limited to, Section XXIII (Covenants Not to Sue by the United States and the State). Certification of Completion of the Wetlands Remedial Action shall not affect Settling Defendants' obligations under this Consent Decree.

90. Completion of the Wetlands Work.

a. Within 90 days after Settling Defendants conclude that all phases of the Wetlands Work (including Wetlands O & M, if any) have been fully performed, Settling Defendants shall schedule and conduct a pre-certification inspection to be attended by Settling Defendants, EPA, and NJDEP. If, after the pre-certification inspection, the Settling Defendants still believe that the Wetlands Work has been fully performed, Settling Defendants shall within 30 days of the inspection

submit a written report by a registered professional engineer stating that the Wetlands Work has been completed in full satisfaction of the requirements of this Consent Decree. The report shall contain the following statement, signed by a responsible corporate official of a Settling Defendant or the Settling Defendants' Project Coordinator:

"To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If, after review of the written report, EPA, after reasonable opportunity for review and comment by NJDEP, determines that any portion of the Wetlands Work has not been completed in accordance with this Consent Decree, EPA will notify Settling Defendants in writing of the activities that must be undertaken by Settling Defendants to complete the Wetlands Work, provided, however, that EPA may only require Settling Defendants to perform such activities pursuant to this Paragraph to the extent that such activities are consistent with the scope of the remedy selected in the Phase 2 ROD, and that the conditions of Paragraph 42 are satisfied. EPA will set forth in the notice a schedule for performance of such activities consistent with the Consent Decree and the Wetlands SOW or require the Settling Defendants to submit a schedule to EPA for approval pursuant to Section XIII (EPA Approval of Plans and Other Submissions), with a copy to NJDEP. Settling Defendants shall perform all activities described in the notice in accordance with the specifications and schedules established therein, subject to their right to invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution) and subject to the provisions of Paragraphs 41 and 42.

b. If EPA concludes, based on the initial or any subsequent request for Certification of Completion by Settling Defendants and after a reasonable opportunity for review and comment by NJDEP, that the Wetlands Work has been fully performed in accordance with this Consent Decree, EPA will so notify the Settling Defendants in writing.

XVII. EMERGENCY RESPONSE

91. In the event of any action or occurrence during the performance of the Phase 2 RI/FS, the Groundwater Work, or the Wetlands Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Defendants shall, subject to Paragraph 92, immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall immediately notify the EPA's Project Coordinator, or, if the Project Coordinator is unavailable, EPA's Alternate Project Coordinator. If neither of these persons is available, the Settling Defendants shall notify the EPA Emergency Response Unit, Region 2. Settling Defendants shall also immediately notify the NJDEP Emergency Hotline, (609) 292-7172. Settling Defendants shall take such actions in consultation with EPA's Project Coordinator or other available authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plans, the Contingency Plans, and any other applicable plans or documents developed pursuant to the Groundwater SOW or the Wetlands SOW, whichever is relevant. In the event that Settling Defendants fail to take appropriate response action as required by this Section, and EPA or, as appropriate, NJDEP, takes such action instead, Settling Defendants shall reimburse EPA and NJDEP all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Reimbursement of Future Response Costs).

92. Nothing in the preceding Paragraph or in this Consent Decree shall be deemed to limit any authority of the United States or the State (a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, or (b) to direct or order such action, or seek an order from the Court, to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the Site, subject to Section XXIII (Covenants Not to Sue by the United States and the State).

93. If the negligence of Settling Defendants or their contractors, subcontractors or agents causes Settling Defendants to take emergency response action pursuant to this Section, then any costs incurred by Settling Defendants for taking such action shall not be considered a cost of performing the Phase 2 RI/FS, Groundwater Work, or Wetlands Work for purposes of Sections VII, VIII, or IX, nor shall such amount be reported in any Monthly Cost Submission.

XVIII. REIMBURSEMENT OF FUTURE RESPONSE COSTS

94. a. Settling Defendants shall reimburse the Hazardous Substance Superfund for all Future Response Costs not inconsistent with the National Contingency Plan, subject to the provisions of Paragraphs 20 and 42. EPA will send Settling Defendants a bill requiring payment that includes a letter from the Director, Emergency and Remedial Response Division, EPA Region II, stating the amount of costs incurred, a SCORE\$ printout of cost data from EPA's financial management system, and, if appropriate, a summary of costs incurred by the United States Department of Justice. For any billing period in which the United States incurs both Future Response Costs and response costs that relate to the Site but are not Future Response Costs, the bill will also include a certification that only Future Response Costs are included and, with respect to extramural costs, a copy of the cooperative or interagency agreements, work assignments, technical directive documents, or similar task orders under which such costs were incurred, subject to applicable law concerning the disclosure of confidential business information. Settling Defendants shall make all payments pursuant to this Paragraph within thirty (30) days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 95. The Settling Defendants shall make all payments required by this Paragraph in the form of a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund" and referencing the EPA Region and Site/Spill ID #02-07, the DOJ case number 90-11-2-422, and the name and address of the party making payment. The Settling Defendants shall send the check(s) to "EPA - Region 2, Attn:

Superfund Accounting, P.O. Box 360188M, Pittsburgh, PA 15251," and shall send copies of the check(s) to the United States as specified in Section XXVIII (Notices and Submissions).

b. Settling Defendants shall reimburse NJDEP for all State Future Response Costs not inconsistent with the National Contingency Plan, subject to the provisions of Paragraphs 20 and 42. NJDEP will send Settling Defendants a bill requiring payment that includes an Analysis of Expenditures. For any billing period in which NJDEP incurs both State Future Response Costs and response costs that relate to the Site but are not State Future Response Costs, the bill will also include a certification that only State Future Response Costs are included and, with respect to extramural costs, a copy of the cooperative or interagency agreements, work assignments, technical directive documents, or similar task orders under which such costs were incurred, subject to applicable law concerning the disclosure of confidential business information. Settling Defendants shall make all payments within 30 days of Settling Defendants' receipt of each bill requiring payment, except as otherwise provided in Paragraph 95. The Settling Defendants shall make all payments to NJDEP required by this Paragraph in the form of a certified check or checks made payable to "Treasurer, State of New Jersey." Settling Defendants shall send the certified check(s) with DEP form 062A to the New Jersey Department of Environmental Protection, Bureau of Revenue, CN 417, Trenton, New Jersey, 08625.

95. Settling Defendants may contest payment of any Future Response Costs or State Future Response Costs under Paragraph 94 if they determine that EPA or NJDEP has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to EPA (if EPA's accounting is being disputed) or NJDEP (if NJDEP's accounting is being disputed) pursuant to Section XXVIII (Notices and Submissions). Any such objection shall specifically identify the cost item and amount of the contested Future Response Costs or State Future Response Costs and the basis for objection. In the event of an objection, the Settling Defendants shall

within the 30 day period pay all uncontested Future Response Costs or State Future Response Costs to the Hazardous Substance Superfund or NJDEP in the manner described in Paragraph 94.

Simultaneously, the Settling Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New Jersey and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs or State Future Response Costs. The Settling Defendants shall send to EPA or NJDEP, as provided in Section XXVIII (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response Costs or State Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, the Settling Defendants shall initiate the Dispute Resolution procedures in Section XXI (Dispute Resolution). If the United States or the State prevails in the dispute, within 5 days of the resolution of the dispute, the Settling Defendants shall pay the sums due (with accrued interest) to the Hazardous Substance Superfund or NJDEP in the manner described in Paragraph 94. If the Settling Defendants prevail concerning any aspect of the contested costs, the Settling Defendants shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to the Hazardous Substance Superfund or NJDEP in the manner described in Paragraph 94; Settling Defendants shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XXI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Settling Defendants' obligation to reimburse the Hazardous Substance Superfund and NJDEP for Future Response Costs and State Future Response Costs.

96. In the event that the payments required by Paragraph 94 of this Consent Decree are not made within 30 days of the Settling Defendants' receipt of the bill, Settling Defendants

shall pay Interest on the unpaid balance. The Interest on Future Response Costs or State Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payments under this Section. The Settling Defendants shall make all payments required by this Paragraph in the manner described in Paragraph 94.

97. No Future Response Costs and State Future Response Costs paid under this Section shall be considered Allowable Costs, nor shall such amounts be reported in any Monthly Cost Submission, except: (1) costs incurred for Access and Institutional Controls when Settling Defendants used best efforts to obtain such access or institutional controls pursuant to Section XI; (2) costs for work takeover pursuant to Paragraph 130, (3) costs for work takeover during suspension conditions as provided in sub-Paragraphs 11.j, 19.j, and 41.j.

XIX. INDEMNIFICATION AND INSURANCE

98. a. The United States and the State do not assume any liability by entering into this Consent Decree or by virtue of any designation of Settling Defendants as EPA's authorized representatives under Section 104(e) of CERCLA, except as specifically provided in the Consent Decree with regard to the Settling Federal Agencies and Settling State Agencies, respectively. Settling Defendants (except the State of Delaware) shall indemnify, save and hold harmless the United States, the State, and their officials, agents, employees, contractors, subcontractors, or representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Settling Defendants (except the State of Delaware), their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree, including, but not limited to, any claims arising from any designation of Settling Defendants (except the State of Delaware) as EPA's authorized representatives under Section 104(e) of CERCLA. Further, the

Settling Defendants (except the State of Delaware) agree to pay the United States and the State all costs the United States and the State incur including, but not limited to, attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States or the State based on negligent or other wrongful acts or omissions of Settling Defendants (except the State of Delaware), their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Consent Decree. Neither the United States nor the State shall be held out as a party to any contract entered into by or on behalf of Settling Defendants in carrying out activities pursuant to this Consent Decree. Neither the Settling Defendants nor any such contractor shall be considered an agent of the United States or the State.

b. The United States or the State shall give Settling Defendants (except the State of Delaware) notice of any claim for which the United States or the State plans to seek indemnification pursuant to sub-Paragraph 98.a, and shall consult with Settling Defendants (except the State of Delaware) prior to settling such claim.

c. No amount paid for indemnification or reimbursement to the United States or the State pursuant to Paragraphs 98 or 99 shall be considered a cost of performing the Phase 2 RI/FS, Groundwater Work, or Wetlands Work for purposes of Sections VII, VIII, or IX, nor shall such amount be reported in any Monthly Cost Submission

99. Settling Defendants waive all claims against the United States and the State for damages or reimbursement or for set-off of any payments made or to be made to the United States or the State, arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Defendants and any person for performance of the Phase 2 RI/FS or Groundwater Work or Wetlands Work on or relating to the Site, including, but not limited to, claims on account of construction delays. In addition, Settling Defendants (except the State of Delaware) shall indemnify and hold harmless the United States and the State with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement or arrangement between any one or more of Settling Defendants (except

the State of Delaware) and any person for performance of the Phase 2 RI/FS or Groundwater Work or Wetlands Work on or relating to the Site, including, but not limited to, claims on account of construction delays.

100. No later than 15 days before commencing any on-site Phase 2 RI/FS work, Groundwater Work and Wetlands Work, Settling Defendants (except the State of Delaware) shall secure, and shall maintain until the first anniversary of EPA's Certification of Completion of the Groundwater Remedial Action or Certification of Completion of Wetlands Remedial Action, whichever is later, pursuant to Paragraphs 87 and 89 respectively of Section XVI (Certification of Completion), comprehensive general liability insurance with limits of \$3,000,000, combined single limit, and automobile liability insurance with limits of \$1,000,000, combined single limit, naming the United States and the State as additional insureds. In addition, for the duration of this Consent Decree, Settling Defendants shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Phase 2 RI/FS work, the Groundwater Work and the Wetlands Work on behalf of Settling Defendants in furtherance of this Consent Decree. Prior to commencement of the Phase 2 RI/FS work, the Groundwater Work and the Wetlands Work under this Consent Decree, Settling Defendants shall provide to EPA and NJDEP certificates of such insurance and a copy of each insurance policy. Settling Defendants shall resubmit such certificates and copies of policies each year on the anniversary of the effective date of this Consent Decree. If Settling Defendants demonstrate by evidence satisfactory to EPA and NJDEP that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Settling Defendants need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

XX. FORCE MAJEURE

101. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of the Settling Defendants, of any entity controlled by Settling

Defendants, or of Settling Defendants' contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Settling Defendants' best efforts to fulfill the obligation. The requirement that the Settling Defendants exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Phase 2 RI/FS, the Groundwater Work or the Wetlands Work or a failure to attain the Groundwater Performance Standards or the Wetlands Performance Standards. Nothing in this Paragraph shall require Settling Defendants to finance the Groundwater Work or the Wetlands Work beyond the requirements set forth in Paragraphs 20 and 42, respectively.

102. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, the Settling Defendants shall notify orally EPA's Project Coordinator or, in his or her absence, EPA's Alternate Project Coordinator or, in the event both of EPA's designated representatives are unavailable, the Director of the Emergency and Remedial Response Division, EPA Region 2, within 48 hours of when Settling Defendants first knew or should have known that the event might cause a delay. Settling Defendants shall also, at the same time, notify orally NJDEP's Project Coordinator or, in his or her absence, NJDEP's Alternate Project Coordinator or, in the event both of NJDEP's designated representatives are unavailable, the Section Chief or Bureau Chief, Case Management Section, Bureau of Federal Case Management, Division of Responsible Party Site Remediation, NJDEP. Within 5 days thereafter, Settling Defendants shall provide in writing to EPA and NJDEP an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; the Settling Defendants' rationale for attributing such delay to a force majeure event if they intend to assert such a claim; and a statement

as to whether, in the opinion of the Settling Defendants, such event may cause or contribute to an endangerment to public health, welfare or the environment. The Settling Defendants shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure event. Failure to comply with the above requirements shall preclude Settling Defendants from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Settling Defendants shall be deemed to know of any circumstance of which Settling Defendants, any entity controlled by Settling Defendants, or Settling Defendants' contractors knew or should have known.

103. If EPA, after a reasonable opportunity for review and comment by NJDEP, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA, after a reasonable opportunity for review and comment by NJDEP, for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. If EPA, after a reasonable opportunity for review and comment by NJDEP, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify the Settling Defendants in writing of its decision. If EPA, after a reasonable opportunity for review and comment by NJDEP, agrees that the delay is attributable to a force majeure event, EPA will notify the Settling Defendants in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

104. If the Settling Defendants elect to invoke the dispute resolution procedures set forth in Section XXI (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Settling Defendants shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted

under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendants complied with the requirements of Paragraphs 102 and 103, above. If Settling Defendants carry this burden, the delay at issue shall be deemed not to be a violation by Settling Defendants of the affected obligation of this Consent Decree identified to EPA and the Court.

XXI. DISPUTE RESOLUTION

105. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. The procedures set forth in this Section, however, shall not apply to action by the United States and/or the State to enforce obligations of the Settling Defendants that have not been disputed in accordance with this Section.

106. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute. Any Notice of Dispute sent by the Settling Defendants shall simultaneously be sent to EPA, NJDEP, the Settling Federal Agencies, and Settling State Agencies, regardless of the nature of the dispute. In the event of a dispute between Settling Defendants and the United States and/or the State, the United States, after a reasonable opportunity for review and comment by the State, will, at the initiation of informal negotiations, inform Settling Defendants and State of the agency, department or instrumentality of the United States or the State that will have primary responsibility for participating in resolution of the particular dispute pursuant to Paragraphs 106 through 109.

107. a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by the United States or the

State, as the case may be, shall be considered binding unless, within 10 days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States and the State a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Settling Defendants. The Statement of Position shall specify the Settling Defendants' position as to whether formal dispute resolution should proceed under either Paragraph 108 or 109.

b. Within fourteen (14) days after receipt of Settling Defendants' Statement of Position, the United States or the State, as the case may be (after a reasonable opportunity for review and comment by the other) will serve on Settling Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by United States or the State. The Statement of Position of the United States or the State, as the case may be, shall include a statement as to whether formal dispute resolution should proceed under either Paragraph 108 or 109. Within 7 days after receipt of the Statement of Position of the United States or the State, as the case may be, Settling Defendants may submit a Reply.

c. If there is disagreement between the United States or the State, as the case may be, and the Settling Defendants as to whether dispute resolution should proceed under Paragraph 108 or 109, the parties to the dispute shall follow the procedures set forth in the paragraph determined by the United States to be applicable. If the Settling Defendants ultimately appeal to the Court to resolve the dispute, however, the Court shall determine which paragraph is applicable in accordance with the standards of applicability set forth in Paragraphs 108 and 109.

108. Formal dispute resolution for disputes pertaining to the selection or adequacy of any response action and all other disputes that are accorded review on the administrative record under applicable principles of administrative law shall be conducted pursuant to the procedures set

forth in this Paragraph. For purposes of this Paragraph, the adequacy of any response action includes, without limitation: (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by EPA under this Consent Decree; and (2) the adequacy of the performance of response actions taken pursuant to this Consent Decree.

a. An administrative record of the dispute shall be maintained by EPA and shall contain all Statements of Position and Replies, including supporting documentation, submitted pursuant to this Section. Where appropriate, EPA may allow submission of supplemental Statements of Position by the parties to the dispute.

b. The Director of the Emergency and Remedial Response Division, EPA Region 2, will issue a final administrative decision resolving the dispute based on the administrative record described in Paragraph 108. Except as otherwise provided in this sub-Paragraph, this decision shall be binding upon the Settling Defendants, subject only to the right to seek judicial review pursuant to sub-Paragraphs 108.c and d.

c. Any administrative decision made by EPA pursuant to sub-Paragraph 108.b shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by the Settling Defendants with the Court and served on all parties within 10 days of receipt of EPA's decision. The motion shall include a description of the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The United States and/or the State may file a response to Settling Defendants' motion.

d. In proceedings on any dispute governed by this Paragraph, Settling Defendants shall have the burden of demonstrating that the decision of the Emergency and Remedial Response Division Director is arbitrary and capricious or otherwise not in accordance with law. Judicial review of EPA's decision shall be on the administrative record compiled pursuant to sub-Paragraph 108.a.

109. Formal dispute resolution for disputes that neither pertain to the selection or adequacy of any response action nor are otherwise accorded review on the administrative record under applicable principles of administrative law, shall be governed by this Paragraph.

a. Following receipt of Settling Defendants' Statement of Position submitted pursuant to Paragraph 107, the Director of the Emergency and Remedial Response Division, EPA Region 2 or a representative of any other agency, department or instrumentality of the United States or the State identified pursuant to Paragraph 106, will issue a final decision resolving the dispute. The decision of the Emergency and Remedial Response Division Director or the representative of any other agency, department or instrumentality of the United States or the State identified pursuant to Paragraph 106 shall be binding on the Settling Defendants unless, within 10 days of receipt of the decision, the Settling Defendants file with the Court and serve on the parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States or the State, as the case may be, may file a response to Settling Defendants' motion.

b. Notwithstanding Paragraph O of Section I (Background) of this Consent Decree, judicial review of any dispute governed by this Paragraph shall be governed by applicable principles of law.

110. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Settling Defendants under this Consent Decree not directly in dispute, unless EPA or the Court agrees otherwise, nor shall it affect Settling Defendants' obligation to make reimbursement to the Settling Federal Agencies pursuant to Paragraph 151 or 155 with regard to costs previously reimbursed but disallowed. Stipulated penalties with respect to the disputed matter shall continue to accrue as provided in Paragraph 117, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 119 of Section XXII.

Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that the Settling Defendants do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XXII (Stipulated Penalties).

XXII. STIPULATED PENALTIES

111. Settling Defendants shall be liable for stipulated penalties in the amounts set forth in Paragraphs 112 and 113 below, to the United States for failure to comply with any requirement of this Consent Decree, unless excused under Section XX (Force Majeure).

"Compliance" by Settling Defendants shall include performance and completion of the activities under this Consent Decree or any work plan or other plan approved under this Consent Decree in accordance with all applicable requirements of law, this Consent Decree, the Phase 2 RI/FS Statement of Work, the Groundwater SOW, the Wetlands SOW, and any plans or other documents approved by EPA pursuant to this Consent Decree, and within the specified time schedules established by and approved under this Consent Decree.

112. The following stipulated penalties shall accrue per violation per day for any noncompliance except those identified in Paragraph 113:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 2,500	1st through 14th day
\$ 5,000	15th through 29th day
\$ 7,500	30th through 44th day
\$10,000	45th through 59th day
\$15,000	60th day and beyond

113. The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports pursuant to Paragraph 63:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 1,000	1st through 7th day
\$ 2,000	8th through 14th day
\$ 2,500	15th day and beyond

114. In the event that EPA assumes performance of a portion or all of the Phase 2 RI/FS work pursuant to sub-Paragraph 130.a of Section XXIII (Covenants Not to Sue by the United States and the State), Settling Defendants shall be liable to EPA for a stipulated penalty of \$100,000. The stipulated penalty due under this Paragraph shall be in addition to any Future Response Costs or State Future Response Costs payable under this Consent Decree.

115. a. In the event that EPA assumes performance of all of the Groundwater Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants have ceased implementation of any portion of the Groundwater Work, Settling Defendants shall be liable for a stipulated penalty of \$3,000,000.

b. In the event that EPA assumes performance of all of the Groundwater Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants are seriously or repeatedly deficient or late in their performance of the Groundwater Work, or are implementing the Groundwater Work in a manner which may cause an endangerment to human health or the environment, Settling Defendants shall be liable for one of the following stipulated penalties:

(i) \$1,750,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of less than or equal to \$30,000,000; or

(ii) \$1,250,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of more than \$30,000,000 but less than or equal to \$60,000,000; or

(iii) \$875,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of more than \$60,000,000 but less than or equal to \$85,000,000; or

(iv) \$500,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of more than \$85,000,000.

c. In the event that EPA assumes performance of a portion of the Groundwater Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants have ceased implementation of any portion of the Groundwater Work, Settling Defendants shall be liable for a stipulated penalty of \$2,250,000.

d. In the event that EPA assumes performance of a portion of the Groundwater Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants are seriously or repeatedly deficient or late in their performance of the Groundwater Work, or are implementing the Groundwater Work in a manner which may cause an endangerment to human health or the environment, Settling Defendants shall be liable for one of the following stipulated penalties:

(i) \$1,000,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of less than or equal to \$30,000,000; or

(ii) \$750,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of more than \$30,000,000 but less than or equal to \$60,000,000; or

(iii) \$500,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reporting having incurred Allowable Groundwater Costs of more than \$60,000,000 but less than or equal to \$85,000,000; or

(iv) \$250,000 if, at the time EPA assumes performance of the Groundwater Work, Settling Defendants have reported having incurred Allowable Groundwater Costs of more than \$85,000,000.

e. Notwithstanding any other provision of this Consent Decree, Settling Defendants' cumulative liability for stipulated penalties under this Paragraph shall not exceed \$4,500,000.

f. The stipulated penalty or penalties due under this Paragraph shall be in addition to any Future Response Costs or State Future Response Costs payable under this Consent Decree.

116. a. In the event that EPA assumes performance of all of the Wetlands Work pursuant to sub-Paragraph 130.c of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants have ceased implementation of any portion of the Wetlands Work, Settling Defendants shall be liable for a stipulated penalty of \$300,000.

b. In the event that EPA assumes performance of all of the Wetlands Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants are seriously or repeatedly deficient or late in their performance of the Wetlands Work, or are implementing the Groundwater Work in a manner which may cause an endangerment to human health or the environment, Settling Defendants shall be liable for a stipulated penalty of \$200,000.

c. In the event that EPA assumes performance of a portion of the Wetlands Work pursuant to sub-Paragraph 130.c of Section XXIII (Covenants Not to Sue by the United States and the State) because Settling Defendants have ceased implementation of any portion of the Wetlands Work, Settling Defendants shall be liable for a stipulated penalty of \$225,000.

d. In the event that EPA assumes performance of a portion of the Wetlands Work pursuant to sub-Paragraph 130.b of Section XXIII (Covenants Not to Sue by the United States

and the State) because Settling Defendants are seriously or repeatedly deficient or late in their performance of the Wetlands Work, or are implementing the Wetlands Work in a manner which may cause an endangerment to human health or the environment, Settling Defendants shall be liable for a stipulated penalty of \$150,000.

e. Notwithstanding any other provision of this Consent Decree, Settling Defendants' cumulative liability for stipulated penalties under this Paragraph shall not exceed \$450,000.

f. The stipulated penalty or penalties due under this Paragraph shall be in addition to any Future Response Costs or State Future Response Costs payable under this Consent Decree.

117. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section XIII (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Settling Defendants of any deficiency; (2) with respect to a decision by the Director of the Emergency and Remedial Response Division, EPA Region 2, under sub-Paragraphs 108.b or 109.a of Section XXI (Dispute Resolution), during the period, if any, beginning on the 21st day after the date that Settling Defendants' reply to EPA's Statement of Position is received until the date that the Director issues a final decision regarding such dispute; or (3) with respect to judicial review by this Court of any dispute under Section XXI (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

118. Following EPA's determination that Settling Defendants have failed to comply with a requirement of this Consent Decree, EPA may give Settling Defendants written notification of the same and describe the noncompliance. EPA may send the Settling Defendants a written demand for the payment of the penalties, with a copy to NJDEP. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified the Settling Defendants of a violation.

119. All penalties accruing under this Section shall be due and payable to the Hazardous Substance Superfund within 30 days of the Settling Defendants' receipt from EPA of a demand for payment of the penalties, unless Settling Defendants invoke the Dispute Resolution procedures under Section XXI (Dispute Resolution). All payments to the Hazardous Substance Superfund under this Section shall be paid by certified or cashier's check(s) made payable to "EPA Hazardous Substance Superfund," shall be mailed to "EPA - Region 2, Attn: Superfund Accounting, P.O. Box 360188M, Pittsburgh, PA 15251," shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 02-07, the DOJ Case Number 90-11-2-422, and the name and address of the party making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s), shall be sent to the United States as provided in Section XXVIII (Notices and Submissions).

120. The payment of penalties shall not alter in any way Settling Defendants' obligation to complete the performance of the Phase 2 RI/FS work, Groundwater Work and the Wetlands Work required under this Consent Decree.

121. No amount paid in stipulated penalties shall be considered a cost of performing the Phase 2 RI/FS, Groundwater Work, or Wetlands Work for purposes of Sections VII, VIII, or IX, nor shall such amount be reported in any Monthly Cost Submission.

122. Penalties shall continue to accrue as provided in Paragraph 117, above, during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to this Court, accrued penalties determined to be owing shall be paid to EPA within 15 days of the agreement or the receipt of EPA's decision or order;

b. If the dispute is appealed to this Court and the United States prevails in whole or in part, Settling Defendants shall pay all accrued penalties determined by the Court to be owed to EPA within 60 days of receipt of the Court's decision or order, except as provided in sub-Paragraph 122.c below;

c. If the District Court's decision is appealed by any Party, Settling Defendants shall pay all accrued penalties determined by the District Court to be owing to the United States into an interest-bearing escrow account within 60 days of receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 days. Within 15 days of receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to EPA or to Settling Defendants to the extent that they prevail.

123. a. If Settling Defendants fail to pay stipulated penalties when due, the United States may institute proceedings to collect the penalties, as well as interest. Settling Defendants shall pay Interest on the unpaid balance, which Interest shall begin to accrue on the date of demand made pursuant to Paragraph 118.

b. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the United States or the State to seek any other remedies or sanctions available by virtue of Settling Defendants' violation of this Decree or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), provided, however, that the United States shall not seek civil penalties pursuant to Section 122(l) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of the Consent Decree.

124. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XXIII. COVENANTS NOT TO SUE BY THE UNITED STATES AND THE STATE

125. a. In consideration of the actions that will be performed and the payments that will be made by the Settling Defendants under the terms of the Consent Decree, and except as specifically provided in Paragraphs 126, 127 and 129 of this Section, the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 7003 of RCRA or Section 106, 107(a), or 113(f)(2) of CERCLA or the Spill Act relating to the Site, and the State covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 107(a) or 113(f)(2) of CERCLA or the Spill Act relating to the Site. With respect to Removal Costs, Lagoon Work Costs, and the Wetlands Work, these covenants not to sue shall take effect upon the receipt by EPA and NJDEP of the payments required by Section VI. With respect to the Groundwater Work and future liability, these covenants not to sue shall take effect upon certification of completion of the remedial action by EPA for the work concerned. These covenants not to sue in this sub-Paragraph are conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. These covenants not to sue in this sub-Paragraph extend only to the Settling Defendants and do not extend to any other person.

b. In consideration of the obligations made by the Settling State Agencies under the terms of the Consent Decree, and except as specifically provided in Paragraphs 126, 127, and 129 of this Section, the United States covenants not to sue or to take administrative action against the State pursuant to Section 7003 of RCRA and Sections 107(a) and 113(f)(2) of CERCLA and the Spill Act relating to the Site. With respect to Removal Costs, Lagoon Work Costs, and the Wetlands Work, these covenants not to sue shall take effect upon the receipt by EPA and NJDEP of the payments required by Paragraph 149. With respect to the Groundwater Work and future liability, these

covenants not to sue shall take effect upon certification of completion of the remedial action by EPA for the work concerned. These covenants not to sue in this sub-Paragraph are conditioned upon the satisfactory compliance by the Settling State Agencies with their obligations under this Consent Decree. These covenants not to sue in this sub-Paragraph extend only to the State and do not extend to any other person.

c. In consideration of the payments that will be made by the Settling Federal Agencies under the terms of the Consent Decree, and except as specifically provided in Paragraphs 126, 127, and 129 of this Section, the State covenants not to sue or to take administrative action against the United States pursuant to Section 7002 of RCRA, Sections 107(a) and 113(f)(2) of CERCLA and the Spill Act relating to the Site. With respect to Removal Costs, Lagoon Work Costs, and the Wetlands Work, these covenants not to sue shall take effect upon the receipt by EPA and NJDEP of the payments required by Paragraph 149. With respect to the Groundwater Work and future liability, these covenants not to sue shall take effect upon certification of completion of the remedial action by EPA for the work concerned. These covenants not to sue in this sub-Paragraph are conditioned upon the satisfactory performance by Settling Federal Agencies of their obligations under this Consent Decree. These covenants not to sue in this sub-Paragraph extend only to the United States and do not extend to any other person.

d. In consideration of the payments that will be made by the Settling Federal Agencies under the terms of the Consent Decree, and except as specifically provided in Paragraphs 126, 127, and 129 of this Section, EPA covenants not to take administrative action against the Settling Federal Agencies pursuant to Section 106 of CERCLA and Section 7003 of RCRA, relating to the Site. With respect to Removal Costs, Lagoon Work Costs, and the Wetlands Work, these covenants not to sue shall take effect upon the receipt by EPA and NJDEP of the payments required by Paragraph 149. With respect to the Groundwater Work and future liability, these covenants not to sue shall take effect upon certification of completion of the remedial action by EPA for the work

concerned. EPA's covenants not to take administrative action against the Settling Federal Agencies are conditioned upon the satisfactory performance by the Settling Federal Agencies of their obligations under this Consent Decree. EPA's covenants not to take administrative action against the Settling Federal Agencies extend only to the Settling Federal Agencies and do not extend to any other person.

126. Pre-certification reservations. Except as provided in Paragraphs 33, 35, and 37, and notwithstanding any other provision of this Consent Decree, the United States and the State reserve, and this Consent Decree is without prejudice to, the right under their respective legal authorities, as applicable, to institute proceedings in this action or in a new action against the Settling Defendants or against each other, or to issue an administrative order seeking to compel Settling Defendants, the Settling Federal Agencies, or the Settling State Agencies (1) to perform further response actions relating to the Site or (2) to reimburse the United States or the State for additional costs of response if, prior to Certification of Completion of the Groundwater Remedial Action:

- (i) conditions at the Site, previously unknown to EPA, are discovered, or
- (ii) information, previously unknown to EPA, is received, in whole or in part,

and EPA determines, after a reasonable opportunity for review and comment by NJDEP, based on these previously unknown conditions or information together with any other relevant information that the Groundwater Remedial Action is not protective of human health or the environment. The rights reserved in this Paragraph apply only to the groundwater remedy and do not apply to the Lagoon Work, Future Operable Units, or the wetlands remedy for the Site.

127. Post-certification reservations. Except as provided in Paragraphs 33, 35, and 37, and notwithstanding any other provision of this Consent Decree, the United States and the State reserve, and this Consent Decree is without prejudice to, the right under their respective legal authorities, as applicable, to institute proceedings in this action or in a new action against the Settling Defendants or against each other, or to issue an administrative order seeking to compel Settling

Defendants, the Settling Federal Agencies, or the Settling State Agencies (1) to perform further response actions relating to the Site or (2) to reimburse the United States and the State for additional costs of response if, subsequent to Certification of Completion of the Groundwater Remedial Action:

- (i) conditions at the Site, previously unknown to EPA, are discovered, or
 - (ii) information, previously unknown to EPA, is received, in whole or in part,
- and EPA determines, after a reasonable opportunity for review and comment by NJDEP, based on these previously unknown conditions or this information together with other relevant information that the Groundwater Remedial Action is not protective of human health or the environment. The rights reserved in this Paragraph apply only to the groundwater remedy and do not apply to the Lagoon Work, Future Operable Units, or the wetlands remedy for the Site.

128. For purposes of Paragraph 126, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date the Phase 2 ROD is signed and set forth in the Phase 2 ROD and the administrative record supporting the Phase 2 ROD, information received pursuant to the requirements of Section VII (Performance of Remedial Investigation and Feasibility Study) or Appendix E, and information regarding Site conditions received from EPA's Phase 2 RI/FS contractor. For purposes of Paragraph 127, the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of Certification of Completion of the Groundwater Remedial Action and set forth in the Phase 2 ROD, the administrative record supporting the Phase 2 ROD, the post-Phase 2 ROD administrative record, information received by EPA pursuant to the requirements of this Consent Decree prior to Certification of Completion of the Groundwater Remedial Action, and information regarding Site conditions received from EPA's Phase 2 RI/FS contractor.

129. General reservations of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified in Paragraphs 125 through 129. The United States and the State reserve, and this Consent Decree is without prejudice to, all rights against

each other and against Settling Defendants with respect to all other matters, including but not limited to items (1) through (6) below; EPA and the federal natural resources trustees reserve, and this Consent Decree is without prejudice to, all rights against the Settling Federal Agencies with respect to all other matters, including but not limited to items (1) through (6) below; and NJDEP and the state natural resources trustees reserve, and this Consent Decree is without prejudice to, all rights against the Settling State Agencies with respect to all other matters, including but not limited to items (1) through (6) below:

- (1) claims based on a failure by Settling Defendants, the Settling Federal Agencies, or the Settling State Agencies to meet a requirement of this Consent Decree;
- (2) liability arising from the past, present, or future disposal, release, or threat of release of Waste Materials outside of the Site;
- (3) liability for future disposal of Waste Material at the Site, other than as provided in the Phase 2 ROD, the Phase 2 RI/FS work, the Groundwater Work, the Wetlands Work, or otherwise ordered by EPA;
- (4) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- (5) criminal liability; and
- (6) liability for violations of federal or state law that occur during or after implementation of the Phase 2 RI/FS, the Wetlands Work or the Groundwater Work.

130. Work Takeover.

a. In the event EPA determines, after a reasonable opportunity for review and comment by NJDEP, that Settling Defendants have ceased implementation of any portion of the Phase 2 RI/FS, are seriously or repeatedly deficient or late in their performance of the Phase 2 RI/FS, or are implementing the Phase 2 RI/FS in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Phase 2 RI/FS as

EPA determines necessary. If EPA assumes the performance of all of the Phase 2 RI/FS pursuant to this sub-Paragraph, then at EPA's sole discretion, and after a reasonable opportunity for review and comment by NJDEP, EPA may elect to deem the Phase 2 RI/FS complete for purposes of the payments due, if any, pursuant to Paragraphs 14, 152.b, and 152.c. If EPA so elects, EPA shall notify Settling Defendants, the Settling Federal Agencies, and NJDEP in writing. The second Monthly Cost Submission submitted after such notification shall be considered the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j.

b. In the event EPA determines, after a reasonable opportunity for review and comment by NJDEP, that Settling Defendants have ceased implementation of any portion of the Groundwater Work, are seriously or repeatedly deficient or late in their performance of the Groundwater Work, or are implementing the Groundwater Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Groundwater Work as EPA determines necessary. If EPA assumes the performance of all of the Groundwater Work pursuant to this sub-Paragraph, then at EPA's sole discretion, and after a reasonable opportunity for review and comment by NJDEP, EPA may elect to deem the Groundwater Work complete for purposes of the payments due, if any, pursuant to Paragraphs 22 and 153.b. If EPA so elects, EPA shall notify Settling Defendants, the Settling Federal Agencies, and NJDEP in writing. The second Monthly Cost Submission submitted after such notification shall be considered the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.l.

c. In the event EPA, after having elected to have Settling Defendants perform the Wetlands Work, determines, after a reasonable opportunity for review and comment by NJDEP, that Settling Defendants have ceased implementation of any portion of the Wetlands Work, are seriously or repeatedly deficient or late in their performance of the Wetlands Work, or are implementing the Wetlands Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portions of the Wetlands Work as

EPA determines necessary. If EPA assumes the performance of all of the Wetlands Work pursuant to this sub-Paragraph, then at EPA's sole discretion, and after a reasonable opportunity for review and comment by NJDEP, EPA may elect to deem the Wetlands Work complete for purposes of the payments due, if any, pursuant to sub-Paragraph 154.d. If EPA so elects, EPA shall notify Settling Defendants, the Settling Federal Agencies, and NJDEP in writing. The second Monthly Cost Submission submitted after such notification shall be considered the Final Wetlands Cost Submission pursuant to sub-Paragraph 64.m.

d. Settling Defendants may invoke the procedures set forth in Section XXI (Dispute Resolution), Paragraph 108, to dispute EPA's determination that takeover of the Phase 2 RI/FS, the Groundwater Work, or the Wetlands Work is warranted under this Paragraph. Costs incurred by the United States in performing the Phase 2 RI/FS, the Groundwater Work or the Wetlands Work pursuant to this Paragraph shall be considered Future Response Costs that Settling Defendants shall pay pursuant to Section XVIII (Reimbursement of Future Response Costs). Costs incurred by NJDEP related to the Groundwater Work or the Wetlands Work pursuant to this Paragraph shall be considered State Future Response Costs that Settling Defendants shall pay pursuant to Section XVIII (Reimbursement of Future Response Costs).

131. The provisions of Paragraph 130 (Work Takeover) shall not apply if (1) Settling Defendants cease implementation of the Groundwater Work after Settling Defendants have incurred Allowable Groundwater Costs equalling the Groundwater Funding Amount, and neither EPA nor NJDEP has notified the Settling Defendants (pursuant to Paragraph 21) that EPA or NJDEP or both will finance 50% of the cost of any remaining Groundwater Work; or (2) Settling Defendants cease implementation of the Wetlands Work after Settling Defendants have incurred costs for performance of the Wetlands Work equalling the Wetlands Funding Amount, and neither EPA nor NJDEP has notified the Settling Defendants (pursuant to Paragraph 43) that EPA or NJDEP or both will finance the cost of any remaining Wetlands Work.

132. Notwithstanding any other provision of this Consent Decree, the United States and the State retain all authority and reserve all rights to take any and all response actions authorized by law.

XXIV. COVENANTS BY SETTLING DEFENDANTS

133. Covenant Not to Sue. Subject to the reservations in Paragraph 134, Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or the State relating to the Site or this Consent Decree, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund (established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections 106(b)(2), 107, 111, 112, 113 or any other provision of law, except as authorized by EPA in a notice pursuant to sub-Paragraph 21.c or 43.b, or to the extent necessary for Settling Defendants to obtain reimbursement pursuant to and consistent with such a notice,

b. any direct or indirect claim for reimbursement from the New Jersey Spill Fund made pursuant to N.J.S.A. 58:10-23.11k,

c. any claims against the United States or the State under RCRA Section 7002 and CERCLA Sections 107(a) or 113(f)(2) relating to the Site,

d. any claims arising out of response activities at the Site, including claims based on EPA's and NJDEP's selection of response actions, oversight of response activities or approval of plans for such activities,

e. any claims under the Tucker Act, 28 U.S.C. § 1491, the United States Constitution, the New Jersey Constitution, the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., or at common law, arising out of or relating to access to, implementation of Institutional Controls relating to or at, or response activities undertaken at or relating to, the Site, and

f. any claims against the State or the United States under the Spill Act related to the Site.

134. The Settling Defendants reserve, and this Consent Decree is without prejudice to (i) enforcement of this Consent Decree based on a failure by the United States to meet a requirement of this Consent Decree, (ii) enforcement of this Consent Decree based on a failure by NJDEP and/or the Settling State Agencies to meet a requirement of this Consent Decree, (iii) contribution claims against the Settling Federal Agencies or the Settling State Agencies in the event any claim is asserted by the United States or the State against the Settling Defendants within the scope of Paragraphs 126 or 127, or sub-Paragraphs 129(2), (3), and (4) but only to the same extent and for the same matters, transactions, or occurrences as are raised in the claim of the United States or the State, (iv) contribution claims against the Settling Federal Agencies in the event a claim within the scope of sub-Paragraph 129(2) is filed against the Settling Defendants by a non-party to this Consent Decree after this Consent Decree is lodged, but only to the same extent and for the same matters, transactions, or occurrences as are raised in the claim of the non-party against the Settling Defendants, and (v) claims arising after the Effective Date of this Consent Decree against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any claim under clause (v) shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Defendants' plans or activities. The foregoing clause (v) applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

135. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXV. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

136. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Consent Decree may have under applicable law. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

137. The Parties agree that the Settling Defendants, the United States, and the State are entitled, as of the effective date of this Consent Decree, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2) for matters addressed in this Consent Decree. "Matters addressed" include all liability for Removal Costs, Lagoon Work Costs, Future Operable Units, the Phase 2 RI/FS, the Groundwater Work, the Wetlands Work, and Future Response Costs. "Matters addressed" also include liability for all other costs that the United States or the State may incur in responding to releases or threatened releases of hazardous substances at or from the Site, except Settling Defendants' liability for any and all claims reserved under Paragraphs 126, 127, 128, and 129 and the Settling Federal Agencies' liability for any and all claims reserved under Paragraph 134 and the Settling State Agencies' liability for any and all claims reserved under Paragraph 134.

138. The Settling Defendants, the United States, and the Settling State Agencies agree that with respect to any suit or claim for contribution brought by them for matters related to this Consent Decree or the Site they will notify one another in writing no later than 60 days prior to

the initiation of such suit or claim. Nothing in this Paragraph shall be construed to affect any enforcement action initiated by the United States or NJDEP.

139. The Settling Defendants, the United States, and the Settling State Agencies also agree that with respect to any suit or claim for contribution brought against them for matters related to this Consent Decree or the Site they will notify one another in writing within 21 days of service of the complaint on them. In addition, Settling Defendants, the United States, and the State shall notify one another within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial.

140. In any subsequent administrative or judicial proceeding initiated by the United States or the Settling Defendants for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, Settling Defendants and the United States shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue or the reservations set forth in Section XXIII (Covenants Not to Sue by the United States and the State) or Section XXIV (Covenants Not to Sue by the Settling Defendants). In any subsequent administrative or judicial proceeding initiated by or against the State for injunctive relief, recovery of response costs, or other appropriate relief relating to the Site, the State, the United States, and Settling Defendants may assert and may raise any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, the entire controversy doctrine, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue or the reservations set

forth in Section XXIII (Covenants Not to Sue by the United States and the State) or Section XXIV (Covenants Not to Sue by the Settling Defendants).

XXVI. ACCESS TO INFORMATION

141. a. Settling Defendants shall provide to EPA and NJDEP, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Consent Decree, including, but not limited, to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Phase 2 RI/FS, the Wetlands Work and the Groundwater Work. Settling Defendants shall also make available to EPA and NJDEP, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Phase 2 RI/FS, the Wetlands Work and the Groundwater Work.

b. The United States shall be entitled, upon 30 days notice, to inspect, copy, and audit all accounting and other records maintained by Settling Defendants, and their contractors and sub-contractors, pursuant to Section XII of this Consent Decree.

142. a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiffs under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when they are submitted to EPA and NJDEP, or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Settling Defendants.

b. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege in lieu of providing documents, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the contents of the document, record, or information; and, (6) the privilege asserted by Settling Defendants. Nevertheless, no documents, reports or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

143. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XXVII. RETENTION OF RECORDS

144. Until 10 years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraphs 88 or 90 of Section XVI (Certification of Completion of the Groundwater Work, and Certification of Completion of the Wetlands Work), whichever comes later, each Settling Defendant shall preserve and retain all records and documents now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Phase 2 RI/FS, the Groundwater Work or the Wetlands Work or liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary. Until 10 years after the Settling Defendants' receipt of EPA's notification pursuant to Paragraphs 88 and 90 of Section XVI (Certification of Completion of the Groundwater Work, and Certification of Completion of the Wetlands Work), whichever comes later, Settling Defendants shall also instruct their contractors and agents to preserve all documents, records, and information of

whatever kind, nature or description relating to the performance of the Phase 2 RI/FS, the Groundwater Work and the Wetlands Work.

145. At the conclusion of this document retention period, Settling Defendants shall notify the United States and the State at least 90 days prior to the destruction of any such records or documents, and, upon request by the United States or the State, Settling Defendants shall deliver any such records or documents to EPA or NJDEP. The Settling Defendants may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If the Settling Defendants assert such a privilege, they shall provide the Plaintiffs with the following: (1) the title of the document, record, or information; (2) the date of the document, record, or information; (3) the name and title of the author of the document, record, or information; (4) the name and title of each addressee and recipient; (5) a description of the subject of the document, record, or information; and (6) the privilege asserted by Settling Defendants. Nevertheless, no documents, reports, or other information created or generated pursuant to the requirements of the Consent Decree shall be withheld on the grounds that they are privileged.

146. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability regarding the Site since notification of potential liability by the United States or the State or by any person, or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. 6927.

XXVIII. NOTICES AND SUBMISSIONS

147. Whenever, under the terms of this Consent Decree, written notice is required to be given or a report or other document is required to be sent by one party to another, it shall be

directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Written notice as specified herein shall constitute complete satisfaction of any written notice requirements of the Consent Decree with respect to the United States, EPA, the Settling Federal Agencies, NJDEP, the Settling State Agencies, and the Settling Defendants, respectively.

As to the United States:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611

Re: DJ# 90-11-2-422

and to the persons identified under "As to EPA"
and "As to the Settling Federal Agencies," below

As to EPA:

Director, Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007

ATTENTION: BROS Site Project Coordinator

and

Chief, New Jersey Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007

ATTENTION: BROS Site Attorney

As to NJDEP:

Section Chief
Hazardous Site Litigation Section
Department of Law and Public Safety
Division of Law
Richard J. Hughes Justice Complex
CN 093
Trenton, NJ 08625-0093

and

Assistant Director
Responsible Party Site Remediation
Department of Environmental Protection
401 East State Street
CN 028
Trenton, NJ 08625-0028

As to the Settling Federal Agencies:

Chief, Environmental Defense Section
Environment and Natural Resources Division
P.O. Box 23986
Washington, DC 20026-3986

Re: DJ # 90-11-3-950

and

The Trustee designated by the United States
on behalf of the Settling Federal Agencies
pursuant to Paragraph 148.b

As to the Settling Defendants:

Michael W. Steinberg, Esq.
Morgan, Lewis & Bockius LLP
1800 M Street, N.W.
Washington, DC 20036

and

Michael R. Dillon, Esq.
Morgan, Lewis & Bockius LLP
2000 One Logan Square
Philadelphia, PA 19103

and

Peter Brussock
ELM
107 North Broad Street
Doylestown, PA 18901

As to the Settling State Agencies:

Section Chief
Transportation Section
Department of Law and Public Safety
Division of Law
Richard J. Hughes Justice Complex
CN 114
Trenton, NJ 08625-0114

and

Manager
Bureau of Environmental Analysis
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, NJ 08625-0600

XXIX. PAYMENTS BY SETTling FEDERAL AGENCIES

148. Parties and Commitments.

a. Settling Federal Agencies: The United States, on behalf of the Settling Federal Agencies, shall reimburse Settling Defendants to the extent and on the schedule specified in this Section XXIX for Allowable Costs paid by Settling Defendants to satisfy their obligations under this Consent Decree with regard to the Phase 2 RI/FS, the Groundwater Work, and the Wetlands Work. The United States, on behalf of the Settling Federal Agencies, shall also make transfers and payments to the Hazardous Substance Superfund and NJDEP as provided in this Section XXIX.

b. No later than 20 days after the effective date of this Consent Decree, the United States on behalf of the Settling Federal Agencies shall (i) designate a financial institution as its agent for purposes of receiving Monthly Cost Submissions, making payments to Settling Defendants, receiving adjustments from Settling Defendants, and otherwise facilitating implementation of this Consent Decree on behalf of Settling Federal Agencies, and (ii) provide written notice of such

designation to Settling Defendants, EPA, and the State. That designation shall not relieve the United States on behalf of the Settling Federal Agencies of any of its obligations under this Consent Decree. The United States on behalf of the Settling Federal Agencies shall be obligated to comply in full with all such obligations without regard to any failure or default of its designated agent.

c. Settling Defendants: All obligations assumed by Settling Defendants pursuant to this Section XXIX shall be binding on each of them individually.

d. Each of the Settling Defendants designates The BROS Superfund Site Environmental Remediation Trust, c/o Louis A. Minella at Rollins Environmental Services (NJ) Inc., P.O Box 2349, Wilmington, DE, 19899

as its agent for all purposes under this Section XXIX. With the exception of the payments to be made to the Hazardous Substance Superfund and NJDEP, all payments due from the United States on behalf of the Settling Federal Agencies pursuant to this Section XXIX shall be made to the agent named in this sub-Paragraph 148.d. Payment to Settling Defendants' designated agent shall be deemed payment to each of the Settling Defendants. In no event shall Settling Federal Agencies be required to make payment to any of the Settling Defendants individually. Likewise, all notices, demands, responses, and other documents to be provided to Settling Defendants under this Section XXIX shall be provided solely to Settling Defendants' above-named agent. Designation of an agent pursuant to this sub-Paragraph shall not relieve Settling Defendants from any obligation imposed under this Consent Decree. Each Settling Defendant shall be obligated to comply in full with the requirements of this Consent Decree without regard to the failure or default of Settling Defendants' designated agent or any other Settling Defendant, including the obligation to (i) repay with Interest all amounts preliminarily paid by the United States on behalf of the Settling Federal Agencies but subsequently disallowed pursuant to Paragraph 64, regardless of whether dispute resolution proceedings have been initiated with regard to such amounts, and (ii) make repayments to the United States pursuant to sub-Paragraphs 157.d and 157.e.

e. Costs: All references in this Section XXIX to costs incurred by Settling Defendants refer solely to Allowable Costs incurred by Settling Defendants' designated agent and do not include costs incurred by any of the Settling Defendants individually, except to the extent such costs have been reimbursed by Settling Defendants' agent.

149. Removal And Lagoon Work Costs.

a. As soon as reasonably practicable after the effective date of this Consent Decree, the United States on behalf of the Settling Federal Agencies shall cause to be transferred to the Hazardous Substance Superfund \$82,127,511 as Settling Federal Agencies' share of Removal Costs and Lagoon Work Costs to be reimbursed to the Hazardous Substance Superfund.

b. As soon as reasonably practicable after the effective date of this Consent Decree, the United States on behalf of the Settling Federal Agencies shall pay \$5,203,989 by U.S. Treasury Check or Electronic Funds Transfer to the "Treasurer, State of New Jersey" at the address shown in Paragraph 9 as Settling Federal Agencies' share of Removal Costs and Lagoon Work Costs to be reimbursed to NJDEP.

c. If payment to the Hazardous Substance Superfund or to NJDEP as required by this Paragraph 149 is not made within 90 days after the effective date of this Consent Decree, the United States on behalf of Settling Federal Agencies shall also pay Interest on the amount due, beginning on the 90th day following the effective date of this Consent Decree and continuing until the date payment is made.

150. Preliminary Review and Reimbursement.

a. Within 30 days after receiving each Monthly Cost Submission submitted pursuant to Paragraph 64, Settling Federal Agencies shall reimburse or decline to reimburse Settling Defendants, pursuant to sub-Paragraphs 150.b through 150.d for each RI/FS, Groundwater, and Wetlands cost for which reimbursement is requested in that Monthly Cost Submission; provided, however, that the Settling Federal Agencies shall reimburse or decline to reimburse Settling

Defendants, pursuant to sub-Paragraphs 150.b through 150.d with regard to the costs included in the first Monthly Cost Submission within 90 days of receipt of that submission and shall reimburse or decline to reimburse Settling Defendants with regard to the costs included in the second Monthly Cost Submission within 60 days of receipt of that submission. Except as provided in sub-Paragraphs 64.g and 150.d, all determinations and payments made pursuant to this Paragraph 150 shall be preliminary and non-binding, and may be reconsidered as part of the Semi-Annual Review described in sub-Paragraph 64.e.

b. If the Monthly Cost Submission documents the cost as required by Appendix H, the United States on behalf of the Settling Federal Agencies shall preliminarily reimburse Settling Defendants with regard to that cost to the extent specified in Paragraph 152 (RI/FS Costs), 153 (Groundwater Costs), or 154 (Wetlands Costs), plus Interest thereon from the date Settling Federal Agencies received the Monthly Cost Submission until the date of payment.

c. If a cost included on a Monthly Cost Submission is not documented as required by Appendix H or is inaccurately reported (such as a clear computational or arithmetic mistake), the United States shall preliminarily decline reimbursement with regard to the portion of that cost which is not documented or is inaccurately reported, but shall make preliminary reimbursement with regard to all other portions of the cost. The United States shall provide Settling Defendants written notice identifying any cost or portion of a cost as to which there is a preliminary determination pursuant to this sub-Paragraph 150.c to decline reimbursement, which notice shall identify the basis for that decision. Any cost as to which preliminary reimbursement has been declined pursuant to this sub-Paragraph 150.c may be resubmitted on a subsequent Monthly Cost Submission and, if resubmitted, shall be clearly identified as a cost as to which preliminary reimbursement was previously declined. The provisions of Paragraph 64 and Section XXIX shall apply to such resubmitted costs. A preliminary determination to deny reimbursement pursuant to this

sub-Paragraph 150.c. shall not be subject to dispute resolution, but shall be reconsidered by the United States as part of the next Semi-Annual Review.

d. The preliminary review pursuant to this Paragraph will not involve a determination as to whether costs are Allowable Costs pursuant to Appendix G. Nonetheless, if it is obvious based on a Monthly Cost Submission that a cost is clearly not an Allowable Cost pursuant to Appendix G, the United States, within 30 days of receipt of that Monthly Cost Submission, may notify Settling Defendants in writing that the cost is disallowed. Within 30 days after receiving a notice of disallowance pursuant to this sub-Paragraph 150.d., and notwithstanding the provisions of Paragraph 107, Settling Defendants may invoke the dispute resolution provisions of Section XXI, Paragraph 109. Any disallowance pursuant to this sub-Paragraph 150.d which is not disputed within the time permitted shall not thereafter be subject to reconsideration during the Semi-Annual Review or to dispute resolution or judicial review.

151. Semi-Annual Review and Final Determination.

a. Each Semi-Annual Review conducted pursuant to sub-Paragraph 64.e shall result in a final determination by the United States (on behalf of both Settling Federal Agencies and EPA) as to the allowability of each cost for which Settling Defendants have sought reimbursement during the period covered by the Semi-Annual Review.

b. If the United States advises Settling Defendants pursuant to sub-Paragraph 64.f that a cost for which Settling Defendants were previously reimbursed has been disallowed, the United States on behalf of the Settling Federal Agencies may demand that Settling Defendants return all prior payments made with regard to the disallowed cost. Within 30 days after receiving such a demand, Settling Defendants shall return the payments at issue, plus Interest thereon from the date of the original payment by Settling Federal Agencies until the date of repayment.

c. If the United States determines as a result of a Semi-Annual Review that a cost for which the United States preliminarily denied reimbursement is allowable, the United States on

behalf of the Settling Federal Agencies shall within 30 days reimburse Settling Defendants for that cost to the extent specified in Paragraph 152, 153, or 154, plus Interest thereon from the date on which Settling Federal Agencies first received information sufficient to establish that the cost was allowable.

d. The initiation of dispute resolution proceedings shall not stay or otherwise affect the right of the United States on behalf of the Settling Federal Agencies to recover (with Interest) all amounts previously paid with regard to a cost which has subsequently been disallowed, or to withhold future payments with regard to a disallowed cost.

e. If any cost disallowed pursuant to sub-Paragraphs 64.e-g and 150.d is allowed as a result of dispute resolution, then the United States on behalf of the Settling Federal Agencies shall reimburse Settling Defendants for that cost to the extent specified in Paragraph 152, 153, or 154, plus Interest thereon from the date on which Settling Federal Agencies first received information sufficient to establish that the cost was allowable, within 15 days after receiving the notice required by sub-Paragraph 64.i.

152. Phase 2 RI/FS Costs.

a. Phase 2 RI/FS: The United States on behalf of the Settling Federal Agencies shall reimburse the Settling Defendants pursuant to Paragraphs 150 and 151 for 78.9% of the Allowable Phase 2 RI/FS Costs incurred by the Settling Defendants.

b. Payments After Completion of the Phase 2 RI/FS: If Settling Defendants report in the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j that they incurred less than \$3 million in total Allowable Phase 2 RI/FS Costs, within 30 days after receipt of the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j, the United States on behalf of the Settling Federal Agencies shall pay to the Hazardous Substance Superfund an amount equal to 78.9% of the difference between \$3 million and the Settling Defendants' reported total Allowable Phase 2 RI/FS Costs.

c. If, after Settling Defendants have submitted the Final Phase 2 RI/FS Cost Submission pursuant to sub-Paragraph 64.j, (i) a cost previously reported as an Allowable Phase 2 RI/FS Cost is finally disallowed pursuant to Paragraph 64, and (ii) subtraction of the finally disallowed cost from the total Allowable Phase 2 RI/FS Costs reported on the Final Phase 2 RI/FS Cost Submission would have increased the payment required pursuant to sub-Paragraph 152.b, then the Settling Federal Agencies shall within 30 days of the final disallowance pay to the Hazardous Substance Superfund the amount of the additional payment required pursuant to sub-Paragraph 152.b.

d. In the event that any payment required by sub-Paragraph 152.b or 152.c is not made when due, the United States on behalf of the Settling Federal Agencies shall pay Interest on the unpaid balance.

153. Groundwater Costs.

a. Groundwater Work: The United States on behalf of the Settling Federal Agencies shall reimburse Settling Defendants pursuant to Paragraphs 150 and 151 as follows for Allowable Groundwater Costs incurred in performing the Groundwater Work:

(i) If at the time the cost was incurred Settling Defendants had not expended more than \$85 million in Allowable Groundwater Costs for Groundwater Work, Settling Federal Agencies shall reimburse Settling Defendants for 78.9% of the cost at issue;

(ii) If at the time the cost was incurred Settling Defendants had expended more than \$85 million in allowable Groundwater costs but less than the Groundwater Funding Amount, Settling Federal Agencies shall reimburse Settling Defendants for 89.45% of the cost at issue; and

(iii) If at the time the cost was incurred Settling Defendants had incurred more than the Groundwater Funding Amount, Settling Federal Agencies shall reimburse Settling Defendants for 39.45% of the cost at issue.

b. Payments After Completion Of Groundwater Work: If the Settling Defendants report on the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.l that they

incurred total Allowable Groundwater Costs less than the Groundwater Funding Amount, the United States on behalf of the Settling Federal Agencies shall pay the Hazardous Substance Superfund and NJDEP as follows:

(i) If Settling Defendants reported incurring less than \$85 million in total Allowable Groundwater Costs, then within 30 days after receipt of the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, the United States on behalf of the Settling Federal Agencies shall pay (1) to the Hazardous Substance Superfund (a) 91% of 78.9% of the difference between the reported total Allowable Groundwater Costs and \$85 million, and (b) \$4 million plus Time Value Adjustments, and (2) to NJDEP (a) 9% of 78.9% of the difference between the reported total Allowable Groundwater Costs and \$85 million, and (b) \$4 million plus Time Value Adjustments.

(ii) If Settling Defendants reported incurring more than \$85 million in total Allowable Groundwater Costs but less than the Groundwater Funding Amount, then within 30 days after receipt of the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, the United States on behalf of the Settling Federal Agencies shall pay to the Hazardous Substance Superfund and NJDEP, divided equally, 50% of the difference between the total reported Allowable Groundwater Costs and the Groundwater Funding Amount.

(iii) If, after Settling Defendants have submitted the Final Groundwater Cost Submission pursuant to sub-Paragraph 64.1, (i) a cost previously reported as an Allowable Groundwater Cost is finally disallowed pursuant to Paragraph 64, and (ii) subtraction of the finally disallowed cost from the total Allowable Groundwater Costs reported on the Final Groundwater Cost Submission would have increased the payment required pursuant to sub-Paragraph 153.b(i) or (ii), then the Settling Federal Agencies shall within 30 days of the final disallowance pay to the Hazardous Substance Superfund and to NJDEP the amounts of the additional payments required pursuant to sub-Paragraph 153.b(i) or (ii).

(iv) In the event that any payment required by this sub-Paragraph 153.b is not made when due, the United States on behalf of the Settling Federal Agencies shall pay Interest on the unpaid balance.

154. Wetlands Costs.

a. Payment In Lieu of Wetlands Work: If EPA elects that Settling Defendants shall not perform the wetlands remedy, the United States on behalf of the Settling Federal Agencies shall pay to the Hazardous Substance Superfund and NJDEP an amount equal to the Wetlands Funding Amount as provided in Paragraph 40.a.

b. If EPA elects that Settling Defendants shall perform the wetlands remedy, the United States on behalf of the Settling Federal Agencies shall reimburse Settling Defendants pursuant to Paragraphs 150 and 151 for 100% of the Allowable Wetlands Costs incurred by Settling Defendants in performing the Wetlands Work, up to the Wetlands Funding Amount.

c. If the Phase 2 ROD selects a no action remedy for wetlands, the United States on behalf of the Settling Federal Agencies shall pay to the Hazardous Substances Superfund 91% of the Wetlands Funding Amount and shall pay to NJDEP 9% of the Wetlands Funding Amount. Such payments shall be made within 30 days after Settling Federal Agencies receive notice that the Phase 2 ROD has selected a no action remedy for wetlands and that payment is due under this sub-Paragraph.

d. Payments After Completion of Wetlands Work: If Settling Defendants report on the Final Wetlands Cost Submission pursuant to sub-Paragraph 64.m that they incurred total Allowable Wetlands Costs less than the Wetlands Funding Amount, within 30 days after receipt of the Final Wetlands Cost Submission pursuant to sub-Paragraph 64.m the United States on behalf of the Settling Federal Agencies shall pay to the Hazardous Substance Superfund 91%, and to NJDEP 9%, of the difference between the reported total Allowable Wetlands Costs and the Wetlands Funding Amount.

e. If, after Settling Defendants have submitted the Final Wetlands Cost Submission pursuant to sub-Paragraph 64.m, (i) a cost previously reported as an Allowable Wetlands Cost is finally disallowed pursuant to Paragraph 64, and (ii) subtraction of the finally disallowed cost from the total Allowable Wetlands Costs reported on the Final Wetlands Cost Submission would have increased the payments required pursuant to sub-Paragraph 154.d, then the Settling Federal Agencies shall within 30 days of the final disallowance pay to the Hazardous Substance Superfund and to NJDEP the amounts of the additional payments required pursuant to sub-Paragraph 154.d.

f. In the event that any payment required by sub-Paragraph 154.d or 154.e is not made when due, the United States on behalf of the Settling Federal Agencies shall pay Interest on the unpaid balance.

155. Reimbursement Requests Involving Fraud. If the United States determines pursuant to sub-Paragraph 64.g that a cost for which the Settling Defendants were previously reimbursed should be disallowed on the grounds that such cost is false or fraudulent within the meaning of 31 U.S.C. § 3729, Settling Federal Agencies may reduce future payments to the Settling Defendants by the amount previously paid in connection with that cost, plus Interest from the time of the original payment. Alternatively, the United States may demand that Settling Defendants return all payments made with regard to the disallowed cost. Within 30 days after receiving such a demand, Settling Defendants shall return such payments in full to the Settling Federal Agencies, with Interest from the date of the original payment until the date of repayment.

156. Access To Records and Documents.

a. Settling Defendants shall provide Settling Federal Agencies with one copy of each of the following at the time they are submitted to or received from EPA:

- (i) each report pursuant to Paragraph 63;
- (ii) each notice of disapproval pursuant to Paragraph 70.d;

(iii) each submission by Settling Defendants in connection with the financial assurance requirements of Section XV;

(iv) each notice submitted by the Settling Defendants pursuant to Paragraph 102 with regard to performance delays;

(v) each Notice of Dispute, Statement of Position, final EPA decision, motion for judicial review, and brief or other judicial filing submitted or received by the Settling Defendants pursuant to Section XXI;

(vi) each notice of noncompliance or demand for payment of penalties received from EPA pursuant to Section XXII; and

(vii) each judicial filing or order provided to EPA pursuant to Paragraph 138 or 139.

157. Other Transfers and Payments.

a. No later than 90 days following receipt of the first Monthly Cost Submission pursuant to Paragraph 63, the United States on behalf of the Settling Federal Agencies shall pay to Settling Defendants' trustee, as designated pursuant to Paragraph 148(d), \$500,000 plus Time Value Adjustments calculated from the effective date of this Consent Decree to the date of payment.

b. Within 30 days after issuance of the Phase 2 ROD setting forth EPA's selected groundwater remedy, the United States on behalf of the Settling Federal Agencies shall pay to Settling Defendants' trustee, as designated pursuant to Paragraph 148(d), an additional \$500,000 plus Time Value Adjustments calculated from the effective date of this Consent Decree to the date of payment.

c. Within 30 days after EPA approval of the Groundwater Remedial Action Work Plan, the United States on behalf of the Settling Federal Agencies shall pay to Settling Defendants' trustee, as designated pursuant to Paragraph 148(d), an additional \$2,798,000 plus Time Value Adjustments calculated from the effective date of this Consent Decree to the date of payment.

d. Within 30 days after EPA issuance of the Certification of Completion of the Groundwater Remedial Action, if payment has not been made to the Settling Federal Agencies pursuant to sub-Paragraph 157.e below, Settling Defendants shall pay to the Settling Federal Agencies \$3,098,000, plus interest in the amount of Time Value Adjustments on this portion of the payments identified in sub-Paragraphs 157.a, b, and c above from the effective date of this Consent Decree.

e. Within 30 days after (i) receipt of the Certificate of Completion of the Groundwater Work or (ii) the date on which Settling Defendants have expended the Groundwater Funding Amount in Allowable Groundwater Costs, whichever occurs first, Settling Defendants shall pay to the Settling Federal Agencies an amount equal to all payments received by the Settling Defendants pursuant to sub-Paragraphs 157.a, b, and c (minus any repayments made pursuant to sub-Paragraph 157.d), plus interest in the amount of Time Value Adjustments from the effective date of this Consent Decree.

158. Payment Mechanism.

a. Reversionary Trust: As soon as reasonably practicable after the effective date of this Consent Decree, the United States on behalf of the Settling Federal Agencies shall establish and fund a reversionary trust to hold the funds to be used to satisfy the future obligations of the Settling Federal Agencies under this Consent Decree. The amount to be placed in this reversionary trust shall be determined solely by the United States on behalf of the Settling Federal Agencies. This amount shall be sufficient, in the judgment of the Settling Federal Agencies based on the information available at the time this Consent Decree becomes effective, to ensure that the trust will at all times have funds available to fully satisfy the obligations of the Settling Federal Agencies as those obligations come due.

b. The obligations of the United States on behalf of the Settling Federal Agencies under this Consent Decree shall not be contingent on the availability of funds in the reversionary trust. Except as provided in Paragraph 159, if the funds available in the reversionary trust are at any

time insufficient to satisfy the remaining obligations of the United States on behalf of the Settling Federal Agencies under the Consent Decree, the United States on behalf of the Settling Federal Agencies shall nevertheless remain obligated to satisfy these obligations. Any claims or actions asserted by the Settling Defendants to enforce obligations under this Section XXIX shall be filed against the United States and not against the trustee. Nothing in this Consent Decree shall give Settling Defendant any claim or right of action against the trustee.

c. All funds remaining in the reversionary trust (both principal and earnings) after the obligations of the United States on behalf of the Settling Federal Agencies under this Consent Decree have been satisfied shall revert to the U.S. Treasury.

d. Trustee: The reversionary trust shall be created pursuant to a trust agreement between the United States, as grantor, and the financial institution identified pursuant to sub-Paragraph 148.b as trustee. The trustee shall have the powers, duties, and responsibilities set out in the trust agreement, including responsibility for maintaining financial and accounting records relating to the trust, making payments to the Settling Defendants and the Hazardous Substance Superfund on behalf of the Settling Federal Agencies as provided in this Section XXIX, and receiving payments from the Settling Defendants on behalf of the Settling Federal Agencies. Any payment made by the trustee under this Section XXIX to the Hazardous Substance Superfund shall be made by Electronic Funds Transfer in the manner set forth in Paragraph 15.

e. Submissions To Trustee: Except as otherwise expressly provided, all documents to be submitted to the United States on behalf of the Settling Federal Agencies pursuant to this Consent Decree, and all adjustments, refunds, and other payments to be made to the United States on behalf of the Settling Federal Agencies, shall be provided directly to the trustee identified pursuant to sub-Paragraph 148.b, which is authorized to receive these materials as the agent of the Settling Federal Agencies. Among the documents to be submitted directly to the trustee are the following:

- (i) Monthly Cost Submissions and related documentation and correspondence;
- (ii) monthly progress reports and related documentation; and
- (iii) information provided by Settling Defendants in response to a request for information in connection with a preliminary review pursuant to Paragraph 150, or in response to a preliminary determination by the United States denying reimbursement of a cost;
- (vi) information provided by Settling Defendants in connection with a Semi-Annual Review pursuant to Paragraph 151;
- (v) the reports, correspondence, and other documents to be submitted to Settling Federal Agencies pursuant to Paragraph 156; and
- (vi) all refunds, adjustments, and other payments due to Settling Federal Agencies from Settling Defendants under this Consent Decree.

159. Availability Of Funds. The obligations of the United States to make payments on behalf of Settling Federal Agencies under this Consent Decree shall be subject to the availability of appropriated funds which may legally be used for this purpose. Nothing in this Consent Decree shall be interpreted as a commitment or requirement that the United States on behalf of the Settling Federal Agencies undertake any obligation or make any payment in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

XXX. STATE AGENCIES' SETTLEMENT

160. Parties and Commitments.

a. Settling State Agencies: The State, on behalf of the Settling State Agencies, shall reimburse Settling Defendants to the extent specified in this Section XXX, sub-Paragraph 160.e, for Allowable Groundwater Costs incurred and amounts paid by Settling Defendants to satisfy their obligations under this Consent Decree with regard to the Groundwater Work.

b. Settling Defendants: All obligations assumed by Settling Defendants pursuant to this Section XXX shall be binding on each of them individually.

c. Each of the Settling Defendants designates The BROS Superfund Site Environmental Remediation Trust, c/o Louis A. Minella at Rollins Environmental Services (NJ) Inc., P.O Box 2349, Wilmington, DE, 19899

as its agent for all purposes under this Section XXX. All payments due from the Settling State Agencies pursuant to this Section XXX shall be made to the agent named in this sub-Paragraph 160.c. Payment to Settling Defendants' designated agent shall be deemed satisfaction of the Settling State Agencies' obligation to each of the Settling Defendants. In no event shall Settling State Agencies be required to make payment to any of the Settling Defendants individually. Likewise, all notices, demands, responses, and other documents to be provided to Settling Defendants under this Section XXX shall be provided solely to Settling Defendants' above-named agent. Designation of an agent pursuant to this sub-Paragraph shall not relieve Settling Defendants from any obligation imposed under this Consent Decree. Each Settling Defendant shall be obligated to comply in full with the requirements of this Consent Decree without regard to the failure or default of the Settling State Agencies.

d. Costs: All references in this Section XXX to costs incurred by Settling Defendants refer solely to Allowable Groundwater Costs incurred by Settling Defendants' designated agent and do not include costs incurred by any of the Settling Defendants individually, except to the extent such costs have been reimbursed by Settling Defendants' agent. For purposes of this Paragraph 160, "incurred" shall include those Allowable Groundwater Costs for which Settling Defendants' designee is invoiced and actual payment is made, but shall not include payments made by the Settling Defendants' designee in the form of multi-years installments toward a single larger amount for which sum the larger amount is accrued in one year and installments are made over a period of more than one year. For purposes of this Paragraph 160, notwithstanding Appendix G Category B, Allowable Groundwater Costs in excess of \$85 million shall not include costs set forth in Appendix G, Category B, Items (9)-(11).

e. Reimbursement: If, in accordance with the provisions for Cost Accounting and Review set forth in Paragraph 64 of this Consent Decree, the Settling Defendants have reported that they have incurred more than \$85 million in Allowable Groundwater Costs, the State, on behalf of the Settling State Agencies, shall reimburse Settling Defendants as follows:

(i) For a period not to exceed 15 years beginning once \$85 million in Allowable Groundwater Costs incurred by the Settling Defendants has been exceeded, and only to the extent that the Settling Defendants continue to incur Allowable Groundwater Costs in excess of \$85 million, the State shall reimburse Settling Defendants, 10.5% or \$150,000 per year, whichever is less, of the annual Allowable Groundwater Costs incurred by Settling Defendants.

(ii) For each year after \$85 million in Allowable Groundwater Costs incurred by the Settling Defendants has been exceeded, and only to the extent that the Settling Defendants continue to incur Allowable Groundwater Costs in excess of \$85 million, the State's total potential reimbursement of \$2,250,000 (i.e., 15 years multiplied by a maximum potential of \$150,000/year) shall be reduced by \$150,000. Pursuant to this Paragraph, the State shall reimburse no more than \$150,000 in any year. For any year for which the State reimburses less than \$150,000, the difference between the actual reimbursement for that year and the potential reimbursement of \$150,000 shall not carry over to subsequent years to compensate for future costs; rather, the amount of the State's total potential reimbursement shall be reduced by the full amount of \$150,000 for each year.

(iii) Once \$85 million in Allowable Groundwater Costs incurred by the Settling Defendants has been exceeded, if in any year during the 15 year period identified in sub-sub-Paragraph 160(e)(i), above, there are no Allowable Groundwater Costs incurred by the Settling Defendants, or if the Settling Defendants are otherwise not required to pay for any Groundwater Work, pursuant to this Paragraph the State shall not be obligated for any reimbursement for that year.

(iv) At the conclusion of the 15 year period identified in sub-sub-Paragraph 160(e)(i), above, the State shall have no continuing obligation under this Paragraph, even if funds remain of the potential contribution of \$2,250,000.

(v) For any period for which reimbursement is sought from the State, on behalf of the Settling State Agencies, the Settling Defendants shall include as part of the Monthly Cost Submissions specified in sub-Paragraph 64.b a request for reimbursement from the State identifying the costs for which reimbursement is sought. Reimbursement shall be made by the State to the Settling Defendants' designee upon approval of the Monthly Cost Submissions.

(vi) If, after the State has reimbursed the Settling Defendants pursuant to Paragraph 160, any costs reported by the Settling Defendants as Allowable Groundwater Costs are disallowed pursuant to Paragraph 64, the Settling Defendants shall pay to the State the amount of the State's reimbursement to the Settling Defendants attributable to the amount incurred by the Settling Defendants which is disallowed as Allowable Groundwater Costs within 30 days after each disallowance becomes final and not subject to further review. Payments to the State pursuant to this Paragraph and interest on such payments are governed by the provisions of sub-Paragraphs 22.c and .d.

f. Any dispute which arises under or with respect to this Paragraph 160, shall be governed by the Dispute Resolution procedures specified in Section XXI (Dispute Resolution).

XXXI. EFFECTIVE DATE

161. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court, except as otherwise provided herein.

XXXII. RETENTION OF JURISDICTION

162. This Court retains jurisdiction over both the subject matter of this Consent Decree and the Parties for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such

further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Decree, or to effectuate or enforce compliance with its terms, or to resolve disputes in accordance with Section XXI (Dispute Resolution) hereof.

XXXIII. APPENDICES

163. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the complete list of the Settling Defendants.

"Appendix B" is the complete list of the Settling Federal Agencies.

"Appendix C" is the Site Location map generally depicting the Site for purposes of the definition of Site.

"Appendix D" is the method of calculating Time Value Adjustments.

"Appendix E" is the Phase 2 RI/FS Statement of Work.

"Appendix F" is the map of the lagoon area footprint for purposes of the definition of Lagoon Work.

"Appendix G" is the list of Allowable Costs.

"Appendix H" is the list of cost documentation requirements and contracting requirements.

XXXIV. COMMUNITY RELATIONS

164. Settling Defendants shall propose to EPA and NJDEP their participation in the community relations plan to be developed by EPA. EPA, after a reasonable opportunity for review and comment by NJDEP, will determine the appropriate role for the Settling Defendants under the Plan. Settling Defendants shall also cooperate with EPA and NJDEP in providing information regarding the Groundwater Work and the Wetlands Work to the public. As requested by EPA and NJDEP, Settling Defendants shall participate in the preparation of such information for dissemination

to the public and in public meetings which may be held or sponsored by EPA or NJDEP to explain activities at or relating to the Site.

XXXV. MODIFICATION

165. Schedules specified in this Consent Decree for completion of the Phase 2 RI/FS, the Groundwater Work and the Wetlands Work may be modified by agreement of EPA and the Settling Defendants. All such modifications shall be made in writing.

166. Except as provided in Paragraphs 27 and 48, no material modifications shall be made to the Phase 2 RI/FS Statement of Work, or to the Groundwater SOW or the Wetlands SOW after issuance of each by EPA pursuant to this Consent Decree, without written notification to and written approval of the United States, Settling Defendants, and the Court. Prior to providing its approval to any modification, the United States will provide the State with a reasonable opportunity to review and comment on the proposed modification. Modifications to the Phase 2 RI/FS Statement of Work, the Groundwater SOW, or the Wetlands SOW that do not materially alter those documents may be made by written agreement between EPA, after providing NJDEP with a reasonable opportunity to review and comment on the proposed modification, and the Settling Defendants.

167. Nothing in this Decree shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Decree.

XXXVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

168. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7, and for the opportunity for a public meeting in the affected area pursuant to Section 7003(d) of RCRA, 42 U.S.C. § 6973(d). The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that the Consent Decree is inappropriate,

improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

169. If for any reason the Court should explicitly decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXXVII. SIGNATORIES/SERVICE

170. Each undersigned representative of a Settling Defendant to this Consent Decree, the representative of the New Jersey Department of Transportation, the Attorney General of the State of New Jersey on behalf of NJDEP and the New Jersey Department of Military and Veterans Affairs, and the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice on behalf of the United States, certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such Party to this document.

171. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree unless the United States has notified the Settling Defendants in writing that it no longer supports entry of the Consent Decree.

172. Each Settling Defendant shall identify, on the attached signature page, the name, address and telephone number of an agent who is authorized to accept service of process by mail on behalf of that party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including, but not limited to, service of a summons.

SO ORDERED THIS _____ DAY OF _____, 19__.

UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR THE UNITED STATES OF AMERICA

Date:

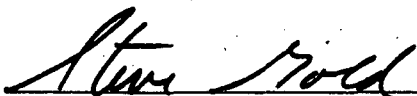
9/26/96


Lois J. Schiffer

Assistant Attorney General
Environment & Natural Resources
Division
United States Department of Justice

Date:

9/27/96


Steve C. Gold

Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources
Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044

Date:

9/26/96


Timothy K. Webster

Trial Attorney
Environmental Enforcement Section
Environment & Natural Resources
Division
United States Department of Justice

Date:

9/26/96


H. Michael Semler

Environmental Defense Section
Environment & Natural Resources
Division
United States Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR THE UNITED STATES OF AMERICA
(CONTINUED)

Faith S. Hochberg
United States Attorney
District of New Jersey

Date: 9-30-96



By: Paul Blaine
Assistant United States Attorney
Mitchell H. Cohen Courthouse
4th and Cooper Streets
Camden, New Jersey 08101-0888

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR THE UNITED STATES OF AMERICA
(CONTINUED)

Date:

9/18/96

Jeanne M. Fox
Jeanne M. Fox
Regional Administrator
Region 2
U.S. Environmental Protection
Agency

Date:

9/18/96

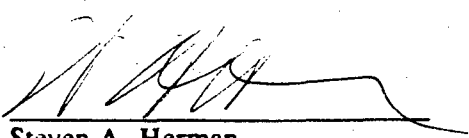
William C. Tucker
William C. Tucker
Assistant Regional Counsel
Region 2
U.S. Environmental Protection
Agency
290 Broadway
New York, NY 10007-1866

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins
Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States
v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil
Services Superfund Site.

FOR THE UNITED STATES OF AMERICA
(CONTINUED)

Date:

9/25/96


Steven A. Herman
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Washington, D.C.

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR THE STATE OF NEW JERSEY

Peter Verniero
Attorney General of New Jersey

Date: 9-24-96

Brendan Ruane
By: Brendan Ruane, Esq.
Deputy Attorney General
Division of Law
Richard J. Hughes Justice Complex
25 Market Street, CN 093
Trenton, NJ 08625
Attorney for Plaintiff/Intervenor State of
New Jersey Department of Environmental Protection

Date: 9-25/96

Ronald T. Corcoran
Ronald T. Corcoran
Assistant Director
Division of Responsible Party Site Remediation
New Jersey Department of Environmental Protection
401 E. State Street, CN 028
Trenton, NJ 08625-0028

Peter Verniero
Attorney General of New Jersey

Date: 9/26/96

Brett D. Rickman
By: Brett D. Rickman, Esq.
Deputy Attorney General
Division of Law
Richard J. Hughes Justice Complex
25 Market Street, CN 093
Trenton, NJ 08625
Attorney for Third Party Defendants New Jersey
Department of Military and Veterans' Affairs

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR THE STATE OF NEW JERSEY
(CONTINUED)

Date:

Sept 25, 1996

Edward J. Dauber *ESQ*

Edward J. Dauber, Esq.

Greenberg, Dauber & Epstein, P.C.

One Gateway Center, Suite 600

Newark, NJ 07102

Attorney for Third Party Defendant New Jersey

Department of Transportation

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party:

3M

Date:

9/20/96

Signature:

Robert Paschke

Name:

ROBERT PASCHKE

Title:

Env. Operations Manager

Address:

P.O. Box 33331 - Bldg. 41-01-05

ST. PAUL, MN. 55133

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

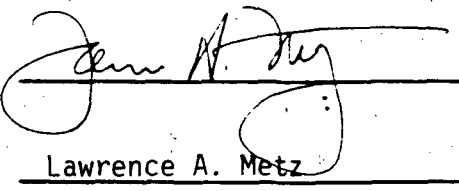
Title:

Address:

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Acme Markets, Inc

Date: 9/26/96 Signature: 

Name: Lawrence A. Metz

Title: Vice President

Address: P.O. Box 27447, Salt Lake City UT 84127-0747

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CT Corporation Systems

Title:

Address:

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Air Products and Chemicals, Inc.

Date: 9/25/96

Signature: 

Name: James H. Adger

Title: Vice President, General Counsel & Secretary

Address: Law Department
Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195-1501

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Stephen S. Ferrara

Title: Attorney

Address: Law Department
Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195-1501

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9-23-96

Party:

Alcan Aluminum Corp.

Signature:

[Handwritten Signature]

Name:

Alfred R. Gwiger Jr.

Title:

Sr. Assoc Counsel

Address:

6060 Parkland Blvd

Mayfield Hts OH 44124

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Same as above

Title:

Address:

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: AlliedSignal Inc.

Date: 9/27 Signature: Paul H. Arbesman

Name: Paul H. Arbesman

Title: Leader, Remediation & Evaluation Services

Address: P.O. Box 1139, Morristown, NJ 07962

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: David P. Cooke, Esq.

Title: Assistant General Counsel

Address: AlliedSignal Inc., P.O. Box 2245
Morristown, NJ 07962

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

American Premier Underwriters, Inc.
f/k/a The Penn Central Corporation

Party: _____

Date: 09/27/96

Signature: _____

Benjamin G. Stonelake, Jr.
Benjamin G. Stonelake, Jr.

Name: _____

Blank Rome Comisky & McCauley
Attorneys for

Title: _____

American Premier Underwriters, Inc.

Address: _____

1200 Four Penn Center Plaza

Philadelphia, PA 19103-2599

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Michael L. Cioffi

Title: _____

Vice President & Assistant General Counsel

Address: _____

Provident Tower, One East Fourth Street

Cincinnati, OH 45202

With Copy to:

Benjamin G. Stonelake, Jr.
Blank Rome Comisky & McCauley
1200 Four Penn Center Plaza
Philadelphia, PA 19103-2599

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

AT&T Corp., (f/k/a American Telephone and Telegraph Company) including Western Electric Company, Incorporated, AT&T Technologies, Inc. and Lucent Technologies Inc. and Bell Telephone Laboratories Incorporated

Date:

9/19/96

Party:

Signature:

John C. Borum

Name:

John C. Borum

Title:

Global Environmental, Health and Safety
Vice President, Corporate Operations

Address:

131 Morristown Road

Basking Ridge, NJ 07920

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Thomas G. Quinn

Title:

Senior Attorney

Address:

131 Morristown Road Room B2154

Basking Ridge, NJ 07920

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

ATLANTIC CITY ELECTRIC AND
ATLANTIC ENERGY, INC.,

Party: _____

Date: 9-26-96

Signature: _____

Name: _____

J. E. Franklin, II
JAMES E. FRANKLIN, II

Title: _____

VICE-PRES SECRETARY & GENERAL COUNSEL

Address: _____

6801 BLACK HORSE PIKE

EGG HARBOR TWP. NJ 08234-4130

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

CLIFFORD C. GAOH

Title: _____

MANAGER - RISK MGT

Address: _____

6801 BLACK HORSE PIKE

EGG HARBOR TWP, NJ 08234-4130

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Atlantic Richfield Company (ARCO)

Date: 9/27/96 Signature: *Urte Barker*
UHB

Name: Urte H. Barker

Title: Manager, Environmental Remediation Assessment

Address: Room #ALF-3281
444 S. Flower St.
Los Angeles, CA 90071

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Urte H. Barker

Title: Manager, Environmental Remediation Assessment

Address: Atlantic Richfield Company (ARCO)
Room #ALF-3281
444 S. Flower St.
Los Angeles, CA 90071

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: BASF

Date: 9-20-96 Signature: Nancy Lake Martin

Name: Nancy Lake Martin

Title: Senior Attorney

Address: 3000 Continental Drive - North
Mount Olive, NJ 07828-1234

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CT Corporation

Title: _____

Address: 820 Bear Tavern Road 3rd Floor
West Trenton, NJ 08628

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: BECHTEL POWER CORPORATION

Date: 9/20/96 Signature: SD Butler

Name: SD BUTLER

Title: MANAGING COUNSEL

Address: 50 BEALE ST
SF CA 94115

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Mr. Richard Pugliese

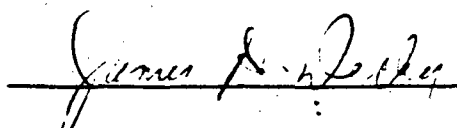
Title: Legal Assistant

Address: Bechtel Power Corporation
50 Beale Street
San Francisco, CA 94115

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: BETZDEARBORN INC.

Date: 9/26/96 Signature: 

Name: JAMES H. DECKER

Title: ASSISTANT GENERAL COUNSEL

Address: 4636 SOMERTON ROAD

TREVOSE, PENNSYLVANIA 19053

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CARL B. EVERETT, ESQ.

Title: SAUL, EWING, REMICK & SAUL

Address: 3800 CENTRE SQUARE WEST

PHILADELPHIA, PENNSYLVANIA 19102

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: BP Exploration & Oil Inc.

Date: 9-27-96 Signature: *Jeffrey C. Conrad*

Name: Jeffrey C. Conrad

Title: Attorney

Address: 200 Public Square, 11-3256-U

Cleveland, Ohio 44114-2375

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Jeffrey C. Conrad

Title: Attorney

Address: 200 Public Square, 11-3256-U

Cleveland, Ohio 44114-2375

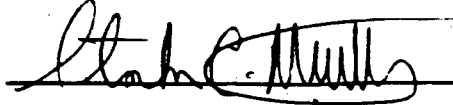
THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/23/96

Party: Buckeye Pipe Line Company

Signature:



Name:

Stephen C. Muther

Title:

Senior Vice President, Administration
and General Counsel

Address:

PO Box 368, Emmaus, PA 18049-0368

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Stephen C. Muther

Title:

Senior Vice President, Administration
and General Counsel

Address:

PO Box 368, Emmaus, PA 18049-0368

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Burroughs Wellcome Co. (now
Glaxo Wellcome Inc.)

Party: _____

Date: 9/18/96

Signature: _____

Paul A. Holcombe Jr.

Name: _____

Paul A. Holcombe, Jr.

Title: _____

Vice President, Deputy General Counsel

Address: _____

Five Moore Drive

Research Triangle Park,
North Carolina 27709

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Susan S. Dunn

Title: _____

Associate General Counsel
Glaxo Wellcome Inc.


Address: _____

Five Moore Drive

Research Triangle Park,
North Carolina 27709

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (ND) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Campbell Soup Company
Date: 7/26/96 Signature: 
Name: Norma B. Carter
Title: Deputy General Counsel
Address: Campbell Place
Camden, NJ 08103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Norma B. Carter
Title: Deputy General Counsel
Address: Campbell Place
Camden NJ 08103

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/23/96

Party:

Champion International Corporation
successor by merger to St. Regis Corp.

Signature:

Jim W. Carraway

Name:

Jim W. Carraway

Title:

Director Environmental Projects

Address:

One Champion Plaza

Stamford, CT 06921

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Melinda Kemp

Title:

Environmental Projects Mgr.

Address:

One Champion Plaza

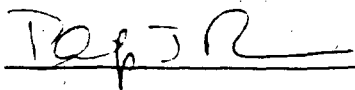
Stamford, CT 06921

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/26/96

Party: Chemical Leaman Tank Lines, Inc.

Signature: 

Name: Philip J. Ringo

Title: President & CEO

Address: 102 Pickering Way

Exton, PA 19341-0200

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Reuben M. Rosenthal

Title: Authorized Agent


Address: 102 Pickering Way

Exton, PA 19341-0200

Counsel: Lois Godfrey Wye, Esq.
Willkie, Farr & Gallagher
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20036-3384

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Chevron Chemical Company
Date: 9/25/96 Signature: 
Name: David Tagliareni
Title: Site Coordinator
Address: P.O. Box 4054
Richmond, CA 94804

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CSC/Prentice Hall
Title: Registered Agent for Service
Address: 830 Bear Tavern Rd
West Trenton, NJ 08628

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Chevron U.S.A. Inc.
Date: 9/25/96 Signature: [Signature]
Name: David Tagliareni
Title: Site Coordinator
Address: P.O. Box 4054
Richmond, CA 94804

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CSC/Prentice Hall
Title: Registered Agent for Service
Address: 830 Bear Tavern Rd
West Trenton, NJ 08628

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date:

9/26/96

Party:

Ciba-Geigy Corporation

Signature:

AT
[Handwritten Signature]

Name:

Title:

Address:

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Prentice-Hall Corporation Systems, Inc.

Title:

Registered Agent

Address:

830 Bear Tavern Road

West Trenton, NJ 08628

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Crown Cork & Seal Company, Inc.

Date: Sept. 26, 1996 Signature: *Richard L. Krzyzanowski*

Name: Richard L. Krzyzanowski

Title: Executive Vice President

Address: 9300 Ashton Road

Philadelphia, PA 19136

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: William T. Gallagher

Title: Assistant Secretary

Address: 9300 Ashton Road

Philadelphia, PA 19136

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Cytec Industries Inc., on behalf of
American Cyanamid Company

Party:

Date: Sept 27, 1996

Signature:

E.F. Jackman KKK

Name:

E.F. Jackman

Title:

Vice President

Address:

Cytec Industries Inc.
5 Garret Mountain Plaza
West Paterson NJ
07424

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Karen Koster

Title:

Attorney, Cytec Industries

Address:

5 Garret Mountain Plaza
West Paterson NJ 07424

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/23/96

Party: Del Monte Foods

Signature: *Wm. R. Sawyers*

Name: William R. Sawyers

Title: Vice President, General Counsel
and Secretary

Address: One Market
San Francisco, CA 94105

Agent Authorized to Accept Service on Behalf of Above-signed Party:



Name: _____

Title: _____

Address: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: <u>9/26/96</u>	Party:	<u>Dole Food Company, Inc.</u>	
	Signature:	<u></u>	<u></u>
	Name:	<u>J. Brett Tibbitts</u>	<u>Freya Maneki</u>
	Title:	<u>Vice President</u>	<u>Assistant Secretary</u>
	Address:	<u>31365 Oak Crest Dr.</u>	<u>31365 Oak Crest Dr.</u>
		<u>Westlake Village, CA 91361</u>	<u>Westlake Village, CA 91361</u>

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: J. Brett Tibbitts

Title: Vice President

Address: 31365 Oak Crest Drive

Westlake Village, CA 91361

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9-25-96

Party: Dresser Industries, Inc.

Signature:



Name:

C. E. Ables

Title:

Vice President and General
Counsel

Address:

2001 Ross Avenue (75201)
P. O. Box 718 (75221)
Dallas, Texas

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Linda Mack, Esquire

Title:

Attorney for Dresser Industries, Inc.
Fox, Rothschild, O'Brien & Frankel

Address:

997 Lenox Drive, Bldg. 3

Lawrenceville, NJ 08648-2311

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al. No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al. 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/24/96

Party: Du Pont Company

Signature: Bernard J. Reilly

Name: Bernard J. Reilly

Title: Corporate Counsel

Address: Legal Room D8068

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Bernard J. Reilly

Title: Corporate Counsel

Address: Du Pont Legal D8068

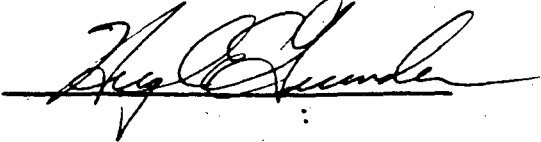
1007 Market St

Wilmington, DE 19898

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTling DEFENDANT

Party: EASTON UTILITIES COMMISSION

Date: 9/25/96 Signature: 

Name: HUGH E. GRUNDEN

Title: GENERAL MANAGER

Address: 219 N. WASHINGTON STREET

EASTON, MD 21601

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: HUGH E. GRUNDEN

Title: GENERAL MANAGER

Address: 219 N. WASHINGTON STREET

EASTON, MD 21601

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Electronic Associates, Inc. now known as EA Industries, Inc.

Date: 9/20/96

Signature:

Howard Kamins

Name:

Howard Kamins

Title:

Vice President and General Counsel

Address:

441 North Fifth Street, 3rd Floor,
Philadelphia, PA 19123

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Marguerite J. Ayres

Title:

Esquire

Address:

Hunt & Ayres, 33rd Floor, 1818 Market Street
Philadelphia, PA 19123

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Elf Atochem North America, Inc.,
(on behalf of itself,

Party:

Atochem, Polyzex Company,
and Pennwalt Corporation)

Date: 9/23/96

Signature:

By:

Frank B. Friedman

Name:

Frank B. Friedman

Title:

Sr V.P. - HES

Address:

2000 Market Street
Philadelphia, PA 19103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Glenn A. Harris, Esquire

Title:

Counsel

Address:

Levin & Hluchan
Suite 100
1200 Laurel Oak Road
Voorhees, New Jersey 08043

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al. No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al. 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Esschem, Inc. (formerly known as Leksi, Inc. and Sartomer Resins)

Date: 9/24/96 Signature: Vincent F. Puccio

Name: Vincent F. Puccio

Title: _____

Address: Suarez + Suarez
2016 Kennedy Blvd.
Jersey City, NJ 07305

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Esschem, Inc.

Title: _____

Address: Governor Pinz Blvd. and
Wanamaker Ave.
Essington, PA 19029

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Essex Chemical Corporation,
and its predecessors Minerec
Corporation and Essex Industrial Chemicals, Inc.,
Paulsboro Chemical Industries Inc., and Dixon
Chemical Industries Inc.

Date: 9/18/96

Signature: Mark Tucker

Name: Mark D. Tucker

Title: Authorized Representative

Address: 2030 Dow Center

Midland MI 48674

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Linda Mack

Title: Attorney for Essex Chemical Corporation

Address: Fox, Rothschild, O'Brien & Frankel
997 Lenox Drive, Building 3

Lawrenceville, NJ 08648-2311

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/24/96

Party: Exxon Company, U.S.A., a division of Exxon Corporation

Signature: 

Name: Donald D. Esch

Title: New Jersey Area Manager

Address: P. O. Box 728

Linden, New Jersey 07036

*From
Assigned
DHS*

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CT Systems

Title: Attn: Carolyn Grimes

Address: 820 Bear Tavern Road

West Trenton, New Jersey 08625

(609) 538-1818

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date:

9/25/96

Party:

F.C. Healy Co. Inc.

Signature:

[Signature]

Name:

F. Christian Healy Jr.

Title:

VP

Address:

2217 Market St
Philadelphia PA 19103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Chris Wetzell

Title:

Charles Consultant

Address:

The Graham Co.
One Penn Square West
Philadelphia PA 19102

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: FORMICA CORPORATION

Date: 9/20/96

Signature: 

Name: KEVIN R. CONDON

Title: SECRETARY

Address: 10155 READING ROAD

CINCINNATI, OH 45241

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: KEVIN R. CONDON

Title: SECRETARY

Address: BTR, INC

333 LUDLOW STREET
STAMFORD, CT 06902

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/23/96

Party: General Electric Company

Signature:



Name: David W. Thompson

Title: Manager, Mid-Atlantic/Southeast Region

Address: 640 Freedom Business Center

King of Prussia, PA 19406

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: David W. Thompson

Title: Manager, Mid-Atlantic/Southeast Region

Address: 640 Freedom Business Center

King of Prussia, PA 19406

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: General Motors Corporation

Date: 9/23/96 **Signature:** Don A. Schiemann

Name: Don A. Schiemann

Title: Attorney

Address: M.C. 482-112-149
3044 West Grand Blvd.
Detroit, MI 48202

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Theresa L. Cerwin

Title: Service of Process Office

Address: M.C. 482-207-700, 3031 West Grand Blvd.
Detroit, MI 48202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Hargro Flexible Packaging Corp.
as successor to Boyertown Packaging Company

Date: 09/27/96 Signature: Benjamin G. Stonelake, Jr.
Benjamin G. Stonelake, Jr.

Name: Blank Rome Comisky & McCauley

Title: Attorneys for
Hargro Flexible Packaging Corp.

Address: 1200 Four Penn Center Plaza
Philadelphia, PA 19103-2599

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Benjamin G. Stonelake, Jr.
Blank Rome Comisky & McCauley

Title: Attorneys for
Hargro Flexible Packaging Corp.

Address: 1200 Four Penn Center Plaza
Philadelphia, PA 19103-2599

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Hercules Incorporated

Date: 20 Sep 1996

Signature: 

Name: Marshall Steinberg

Title: Vice President, Health & Environment

Address: Hercules Plaza - 9322 SE
Wilmington, DE 19894-0001

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Richmond L. Williams, Esq.

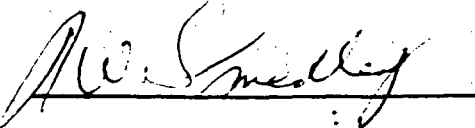
Title: Counsel

Address: Hercules Incorporated
Hercules Plaza - 8321 SE
Wilmington, DE 19894-0001

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Hoechst Celanese Corporation

Date: 9/24/96 Signature: 

Name: R. W. Smedley

Title: Vice President & Controller

Address: Route 202-206

Somerville NJ 08876

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Robin Price, Esq.

Title: _____

Address: Edwards & Angell

250 Royal Palm Way

Palm Beach FL 33480

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: HOFFMANN-LA ROCHE INC

Date: 9/13/96 Signature: John Alexander

Name: JOHN ALEXANDER

Title: ASSISTANT GENERAL COUNSEL

Address: 340 KINGSLAND ST.

NUTLEY, N.J. 07110

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: F. C. KENTZ

Title: VICE PRESIDENT

Address: 340 KINGSLAND ST

NUTLEY N.J. 07110

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: IBM Corporation

Date: 9/24/96 Signature: *James K. Guerin*

Name: James K. Guerin

Title: Senior Counsel

Address: P. O. Box 100, Rte. 100 MD2428

Somers, NY 10589

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: James K. Guerin

Title: Senior Counsel

Address: P.O. Box 100, Rte. 100 MD2428

Somers, NY 10589

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/12/96

Party: International Flavors & Fragrances Inc.

Signature: By *Stephen A. Block*

Name: Stephen A. Block

Title: Vice-President & Secretary

Address: International Flavors & Fragrances Inc.
521 WEST 57th STREET, NEW YORK, N.Y. 10019

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Linda Mack, Esquire

Title: Attorney for International Flavors & Fragrances, Inc.
Fox, Rothschild, O'Brien & Frankel

Address: 997 Lenox Drive, Bldg. 3
Lawrenceville, NJ 08648-2311

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Interstate Storage and Pipeline Corporat:

Date: 9/27/94 Signature: *Benjamin G. Stonelake, Jr.*
Benjamin G. Stonelake, Jr.
Blank Rome Comisky & McCauley

Name: _____

Title: Attorneys for
Interstate Storage and Pipeline Corporati

Address: 1200 Four Penn Center Plaza
Philadelphia, PA 19103-2599

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Charles A. Denault

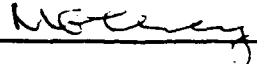
Title: President
Interstate Storage and Pipeline Corporation

Address: 889 Elm Street
Manchester, N.H. 03105

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Jefferson Smurfit Corporation (U.S.),
formerly known as Container Corporation of
America

Date: 9/24/96 Signature: 

Name: Michael E. Tierney

Title: Vice President, General Counsel,
and Corporate Secretary

Address: Jefferson Smurfit Corporation
8182 Maryland Avenue

St. Louis, MO 63105

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: William H. Hoagland

Title: Attorney at Law
~~Hoagland, Fitzgerald, Smith & Pranaitis~~

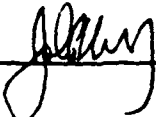
Address: 401 Market Street
P. O. Box 130
Alton, IL 62002

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Johnson Controls, Inc., including its subsidiary Hoover Universal, Inc.

Date: 9/24/96

Signature: 

Name: John P. Kennedy

Title: Vice President

Address: Johnson Controls, Inc.
5757 North Green Bay Avenue X-75
Milwaukee, Wisconsin 53209

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: George J. Marek, Esq.

Title: Attorney for Johnson Controls, Inc.

Address: Quarles & Brady
411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (ND) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

kimberly-Clark Corporation
(formerly Scott Paper Company)

Party: _____

Date: 9/26/96

Signature: _____

Name: _____

Title: _____

Address: _____

Richard F. Craig

RICHARD F. CRAIG

PLANT MGR.

FRONT # Ave of the States
CHESTER, PA 19013

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____

Address: _____

Marcia Cowan, Esq.

Associate Counsel

Kimberly-Clark Corporation
1400 Holcomb Bridge Road
Roswell, GA 30076

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: MOBIL OIL CORPORATION

Date: 9-25-96 Signature: T. M. Milton

Name: T. M. MILTON

Title: MANAGER, SUPERFUND RESPONSE GROUP

Address: 3225 GALLOWES RD
FAIRFAX, VA 22037

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: DOMINICK DE ANGELIS

Title: SUPERFUND RESPONSE CONSULTANT

Address: MOBIL OIL CORP.
3225 GALLOWES RD
FAIRFAX, VA 22037

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Monsanto Company

Date: 9/25/96

Signature:

Michael R. Foresman

1/2/97

Name: Michael R. Foresman

Title: Director, Remediation Management Group

Address: 800 N. Lindbergh Blvd.- F2EA

St. Louis, MO 63167

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Judith Reinsdorf

Title: _____

Address: 800 N. Lindbergh Blvd.

St. Louis, Mo. 63167

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 09/27/96

Party: New Jersey Natural Gas Company

Signature: 

Name: Gary A. Edinger

Title: Senior Vice President -
Energy Delivery

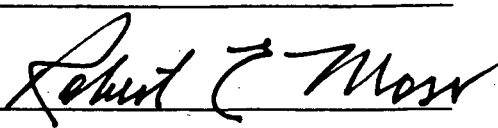
Address: 1415 Wyckoff Road
P. O. Box 1464
Wall, New Jersey 07719

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Oleta J. Harden
Title: Senior Vice President &
General Counsel
Address: New Jersey Natural Gas Company
1415 Wyckoff Road
P. O. Box 1464
Wall, New Jersey 07719

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: O. Ames Co.
Date: 9/20/96 Signature: 
Name: Robert E. Moss
Title: Vice-President, Finance
Address: 3801 Camden Avenue
Parkersburg, WV 26101-6334

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Roxanne E. Jayne, Esquire
Title: Outside Counsel
Address: Drinker, Biddle & Reath
1009 Lenox Drive, Building 4
Lawrenceville, NJ 08648

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Occidental Chemical Corporation

Date: _____ Signature: *Keith C. McDonough*

Name: Keith C. McDonough

Title: Vice President & General Counsel

Address: 5005 LBJ Freeway, Dallas, TX 75244

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: David P. Flynn, Esq.

Title: Attorney at Law

Address: Phillips, Lytle, Hitchcock, Blaine & Huber
3400 Marine Midland Center
Buffalo, NY 14203

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/25/96

Party: OLIN CORPORATION

Signature: Curt M. Richards

Name: CURT M. RICHARDS

Title: Director of Environmental Remediation

Address: 1186 Lower River Road
P. O. Box 248
Charleston, TN 37310-0248

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Johnnie M. Jackson

Title: Vice President, General Counsel & Secretary

Address: 501 Merritt Seven
P. O. Box 4500
Norwalk, CT 06856-4500

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: OLIN MICROELECTRONIC CHEMICALS, INC.

Date: 7/25/96 Signature: Steven T. Warshaw

Name: Steven T. Warshaw

Title: President

Address: 501 Merritt Seven, P. O. Box 4500
Norwalk, CT 06856-4500

Agent Authorized to Accept Service on Behalf of Above-signed Party:

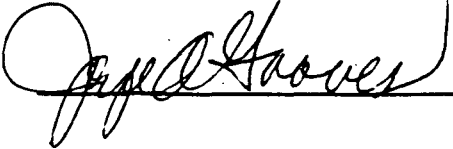
Name: Johnnie M. Jackson

Title: Vice President, General Counsel & Secretary

Address: 501 Merritt Seven, P. O. Box 4500
Norwalk, CT 06856-4500

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTling DEFENDANT

Party: Owens Corning
Date: 09/24/96 Signature: 
Name: Joyce Ann Graves
Title: Case Management Specialist
Address: Fiberglas Tower
Toledo, Ohio 43659

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Same as above
Title: _____
Address: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/24/96

Party: OWENS-ILLINOIS, INC.

Signature: 

Name: H. G. BRUSS

Title: ASSISTANT SECRETARY

Address: ONE SEAGATE

TOLEDO, OHIO 43666

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: CT CORPORATION SYSTEM

Title:

Address: 815 SUPERIOR AVENUE N.E. SUITE 1420

CLEVELAND, OHIO 44114

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: PECO Energy Company

Date: 3/25/96

Signature: 

Name: Corbin A. McNeill, Jr.

Title: Chief Executive Officer

PECO Energy Company

Address: 2301 Market Street

Philadelphia, PA 19103

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Dawn Getty Sutphin

Title: Assistant General Counsel

PECO Energy Company

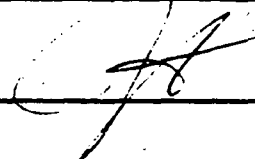
Address: 2301 Market Street, S23-1

Philadelphia, PA 19103

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Penick Corporation,
a former subsidiary of CPC International Inc.

Date: _____ **Signature:** 

Name: John W. Scott

Title: Vice President

Address: P.O. Box 8000, International Plaza
Englewood Cliffs, NJ 07632

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Peter J. Russell, Esq.

Title: _____


Address: Bivona, Cohen, Kunzman, Coley, Yospin, Bernstein & DiFrancesco
15 Mountain Boulevard
Warren, New Jersey 07059

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Philips Technologies
Airpax Protector Group

Date: 9/25/96

Signature: 

Name: Michael V. Rabasca

Title: Controller

Address: P O Box 520 Cambridge, MD 21613-0520

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Title: _____


Address: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NI) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/19/96

Party: POLAROID CORPORATION

Signature: 

Name: Thomas M. Lemberg

Title: Senior Vice President,
General Counsel and Secretary

Address: 549 Technology Square
Cambridge, MA 02139

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Sheldon W. Rothstein

Title: Senior Corporate Attorney

Address: 575 Technology Square
Cambridge, MA 02139

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Rohm and Haas Company

Date: 9/10/96 Signature: Ellen S. Friedell

Name: Ellen S. Friedell

Title: Assistant General Counsel

Address: 100 Independence Mall West
Philadelphia, PA 19106-2399

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Ellen S. Friedell

Title: Assistant General Counsel

Address: Rohm and Haas Company
100 Independence Mall West
Philadelphia, PA 19106-2399

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

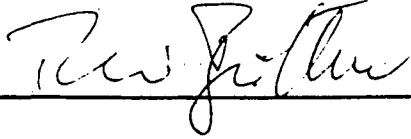
Party: Rollins Environmental Services (NJ) Inc.
Date: 9/26/96 Signature: [Signature]
Name: Louis A. Minella
Title: Counsel
Address: P.O. Box 2349
Wilmington, DE 19899

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Same
Title: _____
Address: _____

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Ruetgers-Nease Corporation
Date: 9/23/96 Signature: 
Name: Thomas W. Büttner
Title: President & CEO
Address: 201 Struble Road,
State College, PA 16801

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Thomas W. Büttner
Title: President & CEO
Address: 201 Struble Road
State College, PA 16801

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT
**SEQUA CORPORATION (as successor
to GENERAL PRINTING INK)**

Date: 9/24/96

Party:

Signature:

L. R. Pasculli

Name:

L. R. PASCULLI

Title:

DIRECTOR, ENV. LAW

Address:

SEQUA CORPORATION
3 UNIVERSITY PLAZA
HACKENSACK, NJ 07601

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

ELETHA L. DUFFY, ESQ.

Title:

1138-H EASTON AVE.

Address:

SOMERSET, NJ

08873-1631

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Shell Oil Company, Shell Chemical Company
and Shell Oil Products Company

Date: 9-23-96

Signature: Kent W Rogers

Name: K. W. Rogers

Title: Manager, Remediation

Address: P.O. Box 4320

Houston, TX 77210-4320

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: W. C. Lowrey

Title: Senior Counsel

Address: P.O. Box 2463
Houston, TX 77252-2463

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party:

SMITH KLINE BEECHAM CORPORATION

Date: 9/26/96

Signature:

Donald F. Parman

Name:

DONALD F. PARMAN

Title:

SECRETARY

Address:

ONE FRANKLIN PLAZA (FP 2225)
200 NORTH 16TH STREET
PHILADELPHIA, PA 19102

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

PAUL R. NOLL

Title:

SENIOR COUNSEL

Address:

SMITH KLINE BEECHAM CORPORATION
ONE FRANKLIN PLAZA (FP 2225)
200 NORTH 16TH STREET
PHILADELPHIA, PA 19102

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/27/96

Party: State of Delaware

Signature:

Robert S. Kuehl

Name:

Robert S. Kuehl

Title:

Deputy Attorney General

Address:

820 N. French Street, 6th Floor
Wilmington, DE 19801

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Robert S. Kuehl

Title:

Deputy Attorney General

Address:

820 N. French Street, 6th Floor
Wilmington, DE 19801

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/27/96

Party: State of Delaware

Signature: *Malcolm S. Cobin*

Name: Malcolm S. Cobin

Title: Assistant State Solicitor

Address: 820 N. French Street, 6th Floor
Wilmington, DE 19801

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Robert S. Kuehl
Title: Deputy Attorney General

Address: 820 N. French Street, 6th Floor
Wilmington, DE 19801

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT:

Sun Company, Inc. (R&M), formerly
Sun Refining and Marketing Co.

Party:

Date: 9/26/96

Signature:

David E Knoll

Name:

David E. Knoll

Title:

Senior Vice President

Ten Penn Center, 1801 Market Street
Philadelphia, PA 19103

Address:

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Thomas J. Haines, Esq.

Title:

Senior Attorney

Sun Company, Inc. (R&M)

Address:

Ten Penn Center, 1801 Market Street


Philadelphia, PA 19103

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. Allied Signal Inc., et al., 92-2726 (SSB)(D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Texaco Inc. for itself
and
Texaco Refining & Marketing Inc.

Date: September 13, 1996

Signature: 

Name: R. Eric Vogt

Title: Senior Attorney

Address: 2000 Westchester Ave.

White Plains, NY 10650

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: R. Eric Vogt

Title: Senior Attorney

Address: Texaco Inc.

2000 Westchester Ave.

White Plains, NY 10650


Of Counsel:

Louis M. DeStefano
Carpenter, Bennett & Morrissey
Three Gateway Center
100 Mulberry Street
Newark, NJ 07102

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: The Boeing Company

Date: 09/24/96 Signature: 

Name: N. J. Masington, Jr.

Title: Deputy Group Counsel

Address: P.O. Box 16858 M/S P31-60
Philadelphia, PA 19142

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: N. J. Masington, Jr.

Title: Deputy Group Counsel

Address: P.O. Box 16858 M/S P31-60
Philadelphia, PA 19142

Stewart Ave. & Industrial Hwy.
Ridley Park, PA 19078

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: The Dow Chemical Company

Date: 9/18/96 **Signature:** Mark Tucker

Name: Mark D. Tucker

Title: Senior Counsel

Address: 2030 Dow Center

Midland MI 48674

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Linda Mack

Title: Attorney for The Dow Chemical Company

Address: Fox, Rothschild, O'Brien & Frankel
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9-18-96

Party: The Sherwin-Williams Company

Signature: 

Name: Louis E. Stellato

Title: Vice President, General Counsel & Secretary

Address: 101 Prospect Avenue, N.W.

Cleveland, OH 44115

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Allen J. Danzig

Title: Associate General Counsel-Environmental

Address: 101 Prospect Avenue, N.W.

Cleveland, OH 44115

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Union Carbide Corporation, for itself and
Amchem Products Inc.

Party:

Date: 9/24/96

Signature:

Name:

Mark E. Tapp

Title:

Remediation Manager

Address:

39 Old Ridgebury Road

Danbury, CT 06817

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name:

Carol L. Dudnick, Esq.

Title:

Chief Environmental Counsel

Address:

Union Carbide Corporation

39 Old Ridgebury Road, E3254

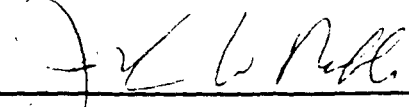
Danbury, CT 06817

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/27/96

Party: University of Delaware

Signature: 

Name: John W. Noble, Esq.

Title: Attorney

Address: Parkowski, Noble & Guerke, P.A.
116 W. Water St.
PO Box 598
Dover, DE 19903

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Pierre D. Hayward

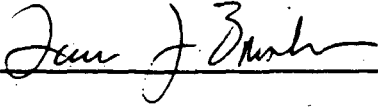
Title: Vice President & University Secretary

Address: 132 Hullihen Hall
Newark, DE 19716

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Party: Westinghouse Electric Corporation

Date: 9/24/96 Signature: 

Name: Louis J. Briskman

Title: Senior Vice President & General Counsel

Address: 11 Stanwix Street

Pittsburgh, PA 15222-1384

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: Roger E. Wills, Jr.

Title: Assistant General Counsel

Address: 11 Stanwix Street

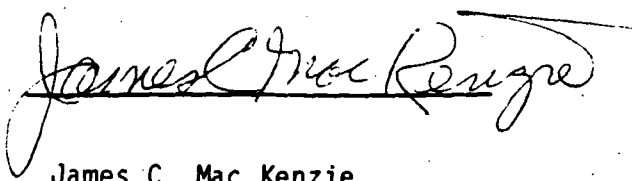
Pittsburgh, PA 15222-1384

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: 9/24/96

Party: Xerox Corporation

Signature: 

Name: James C. Mac Kenzie

Title: Director, Environmental Health & Safety

Address: 800 Phillips Road (0105-70c)
Webster, NY 14580

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Prentice Hall

Name: Ms. Karen Dyer

Title: Agent

Address: 100 Pine Street, Suite 330
Harrisburg, PA 17108

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.), relating to the Bridgeport Rentals and Oil Services Superfund Site.

FOR SETTLING DEFENDANT

Date: _____

Party: Zeneca Inc. (formerly known as ICI Americas Inc.)

Signature: _____

Name: _____

Joseph C. Kelly

Title: _____

Assistant General Counsel

Address: _____

1800 Concord Pike

P. O. Box 15438, Wilmington, DE 19850-5438

Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: _____

Luke W. Mette

Title: _____

Attorney

Address: _____

Zeneca Inc., Env. Law Dept.

1800 Concord Pike, P.O. Box 15438

Wilmington, DE 19850-5438

Settling Defendants

3M

Acme Markets, Inc.

Air Products and Chemicals, Inc.

Alcan Aluminum Corp.

AlliedSignal Inc.

American Premier Underwriters, Inc. (formerly known as The Penn Central Corporation)

AT&T Corp. (formerly American Telephone and Telegraph Company)

AT&T Technologies, Inc.

Atlantic City Electric

Atlantic Energy, Inc.

Atlantic Richfield Company (ARCO)

BASF

Bechtel Power Corporation

Bell Telephone Laboratories, Incorporated

Betzdearborn Inc.

Bridgestone/Firestone, Inc.

BP Exploration & Oil Inc.

Buckeye Pipe Line Company

Campbell Soup Company

Champion International Corporation (successor by merger to St. Regis Corp.)

Chemical Leaman Tank Lines, Inc.

Chevron Chemical Company

Chevron U.S.A. Inc.

Ciba-Geigy Corporation

Crown Cork & Seal Company, Inc.

Cytec Industries Inc. (on behalf of American Cyanamid Company)

Del Monte Foods

Delaware Electric Cooperative, Inc.

Dole Food Company, Inc.

Dresser Industries, Inc.

DuPont Company

EA Industries, Inc. (formerly known as Electronic Associates, Inc.)

Easton Utilities Commission

Elf Atochem North America, Inc. (on behalf of itself, Atochem, Polyrez Company, and Pennwalt Corporation)

Esschem, Inc. (formerly known as Leksi, Inc. and Sartomer Resins)

Essex Chemical Corporation (and its predecessors Minerec Corporation and Essex Industrial Chemical, Inc., Paulsboro Chemical Industries Inc., and Dixon Chemical Industries, Inc.)

Exxon Company, U.S.A., a division of Exxon Corporation

F.C. Haab Co. Inc.

Formica Corporation

Glaxo Wellcome Inc. (formerly Burroughs Wellcome Co.)

General Electric Company

General Motors Corporation

Hargro Flexible Packaging Corp. (as successor to Boyertown Packaging Company)

Hercules Incorporated
Hoechst Celanese Corporation
Hoffmann-La Roche Inc
Hoover Universal, Inc.
IBM Corporation
International Flavors & Fragrances Inc.
Interstate Storage and Pipeline Corporation
Jefferson Smurfit Corporation (U.S.) (formerly known as Container Corporation of America)
Johnson Controls, Inc.
Kimberly-Clark Corporation (formerly Scott Paper Company)
Lucent Technologies Inc.
Mobil Oil Corporation
Monsanto Company
New Jersey Natural Gas Company
O. Ames Co.
Occidental Chemical Co.
Olin Corporation
Olin Microelectronic Chemicals, Inc.
Owens Corning
Owens-Illinois, Inc.
PECO Energy Company
Penik Corporation (a former subsidiary of CPC International, Inc.)
Philips Technologies Airpax Protector Group
Polaroid Corporation
Rohm and Haas Company
Rollins Environmental Services (NJ) Inc.
Ruetgers-Nease Corporation
Sequa Corporation (as successor to General Printing Ink)
Shell Chemical Company
Shell Oil Company
Shell Oil Products Company
SmithKline Beecham Corporation
State of Delaware
Sun Company, Inc. (R&M) (formerly Sun Refining and Marketing Co.)
Texaco Inc.
Texaco Refining & Marketing Inc.
The Boeing Company
The Dow Chemical Company
The Sherwin-Williams Company
Union Carbide Corporation (for itself and Amchem Products Inc.)
University of Delaware
Western Electric Company, Incorporated
Westinghouse Electric Corporation
Xerox Corporation
Zeneca Inc. (formerly known as ICI Americas Inc.)

APPENDIX B to the Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.).

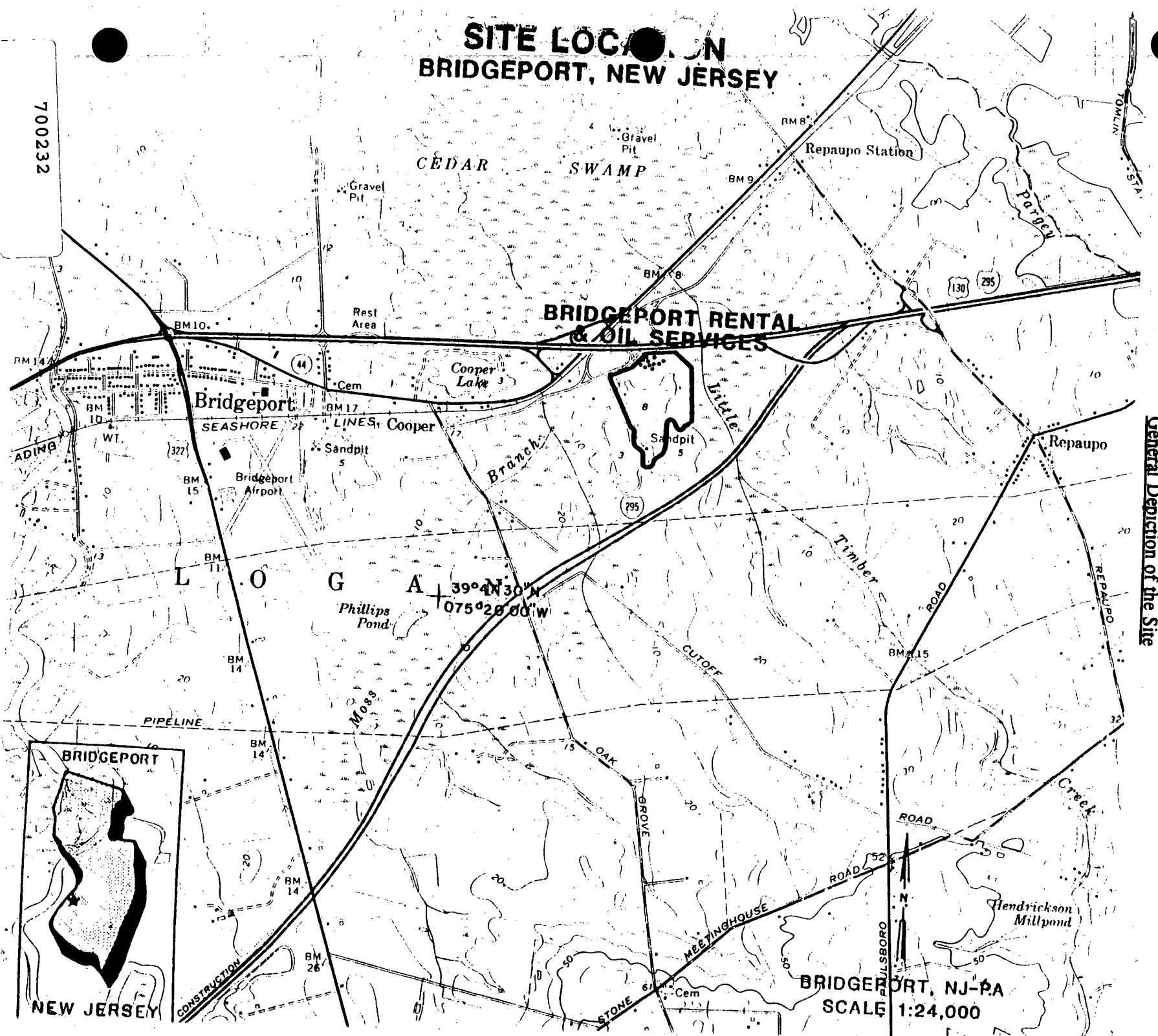
Settling Federal Agencies

United States Department of Defense, including the Department of the Army, the Department of the Air Force, the Department of the Navy, and the Defense Logistics Agency.

United States Department of Transportation, including the United States Coast Guard.

SITE LOCATION BRIDGEPORT, NEW JERSEY

700232



General Depiction of the Site

APPENDIX C to the Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No. 92-1253 (SSB) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.).

BRIDGEPORT, NJ-PA
SCALE 1:24,000

TIME VALUE ADJUSTMENTS

A. Purpose

Time Value Adjustments are upward adjustments made to the unspent balance of part of the Groundwater Funding Amount and the entire Wetlands Funding Amount, as set forth below and in the Consent Decree, and to certain amounts as specified in Paragraphs 153 and 157 of the Consent Decree, to reflect the equivalent of interest accruing on those amounts. The purpose of this Appendix is to set forth the method of calculating Time Value Adjustments and related rules, and in no way should it be construed as superseding or altering the terms of the Consent Decree. The definitions set forth in Section IV of the Consent Decree apply to this Appendix.

B. Time Value Adjustments to the Groundwater Funding Amount

As provided in Section IV of the Consent Decree, Time Value Adjustments apply to a \$16 million component of the Groundwater Funding Amount. Also as provided in the Consent Decree, the Settling Defendants must first expend \$85 million for performance of the groundwater remedy prior to expending the \$16 million plus Time Value Adjustments.

C. Time Value Adjustments to the Wetlands Funding Amount

As provided in Section IV of the Consent Decree, Time Value Adjustments apply to the entire \$10 million Wetlands Funding Amount.

D. Method of Calculating Time Value Adjustments

Time Value Adjustments shall be calculated as of the end of every calendar month after the effective date of the Consent Decree according to Section XXXI until such time as the Groundwater Funding Amount and Wetlands Funding Amount have been fully expended for performance of the respective remedial components or paid to EPA and NJDEP; however, Time Value Adjustments for the first calendar month the Consent Decree is in effect shall be prorated according to the effective date. Monthly calculations of Time Value Adjustments shall be made and maintained separately for groundwater and wetlands and shall include a calculation of both the Time Value Adjustments and the closing groundwater and wetlands balances. Time Value Adjustments calculations shall be provided in each Monthly Cost Submission pursuant to Paragraph 64. If the amount of Allowable Costs for any given month changes after the end of that month due to disallowance pursuant to Paragraph 66 or the resolution of a dispute concerning a disallowance, or for any other reason, then the Time Value Adjustments calculations shall be recalculated for that month and every succeeding month in order to reflect the change.

For any given month, Time Value Adjustments shall be calculated by applying the current Monthly Interest Rate Equivalent (as defined below) to the current month's average balance. The closing balance for the current month is thus the previous month's closing balance (including the previous month's Time Value Adjustments), minus the Current Month's Qualifying Allowable Costs, plus the current month's Time Value Adjustments. The formula can be stated as follows:

- 1) $\text{CURRENT MONTH'S TIME VALUE ADJUSTMENTS} = \text{CURRENT MONTH'S AVERAGE BALANCE} \times \text{MONTHLY INTEREST RATE EQUIVALENT}$
- 2) $\text{CURRENT MONTH'S CLOSING BALANCE} = \text{PREVIOUS MONTH'S CLOSING BALANCE} - \text{CURRENT MONTH'S QUALIFYING ALLOWABLE COSTS} + \text{CURRENT MONTH'S TIME VALUE ADJUSTMENTS}$

Where:

"CURRENT MONTH'S AVERAGE BALANCE" means the average groundwater or wetlands balance for the current month as calculated by subtracting half of the Current Month's Qualifying Allowable Costs from the Previous Month's Closing Balance.

"CURRENT MONTH'S QUALIFYING ALLOWABLE COSTS" means allowable costs of performance of the Groundwater Work after the Settling Defendants have incurred Allowable Groundwater Costs of \$85 million or the Wetlands Work for the current month according to Appendix G and Paragraph 64 of the Consent Decree.

"MONTHLY INTEREST RATE EQUIVALENT" means the applicable rate of interest on investments of the Hazardous Substances Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code in accordance with Section 107(a) of CERCLA, divided by twelve. If for any reason the rate of interest on investments of the Hazardous Substances Superfund is not available, then the rate of interest on United States Treasury Bills of one year duration issued immediately prior to the date on which the calculation is being made shall be used instead.

"PREVIOUS MONTH'S CLOSING BALANCE" means the previous month's groundwater or wetlands closing balance carried over to the current month (including the previous month's Time Value Adjustments). For the first calendar month the Consent Decree is in effect, the Previous Month's Closing Balance for groundwater shall be \$16 million (see Section B, above) and for wetlands shall be \$10 million (see Section C, above).

E. Time Value Adjustments for Purposes of sub-Paragraph 153.b(i)

For purposes of sub-Paragraph 153.b(i) of the Consent Decree, Time Value Adjustments are calculated in the same manner as set forth in Paragraph D of this Appendix, except that the initial amounts are \$4 million for the United States and \$4 million for the State. Alternatively, the same calculation can be performed by taking the Current Month's Closing Balance for groundwater for the month immediately preceding the date of payment pursuant to Paragraph 153.b(i) and dividing that balance by four. The result equals \$4 million dollars plus Time Value Adjustments through that date.

F. Time Value Adjustments for Purposes of Paragraph 157

For purposes of Paragraph 157 of the Consent Decree, Time Value Adjustments are calculated in the same manner as set forth in Paragraph D of this Appendix on the initial amounts provided in Paragraph 157, except that in equation (2) of Paragraph D of this Appendix, the subtraction of "CURRENT MONTH'S QUALIFYING ALLOWABLE COSTS" shall not apply to calculation of Time Value Adjustments to the amounts in Paragraph 157.

APPENDIX E to the Consent Decree in the matter of Rollins Environmental Services (NJ) Inc., et al. v. United States, et al., No.92-1253 (SSB) (D.N.J.) & United States v. AlliedSignal Inc., et al., 92-2726 (SSB) (D.N.J.).

STATEMENT OF WORK

Bridgeport Rental & Oil Services (BROS)
Logan Township, Gloucester County, New Jersey

Phase 2 Remedial Investigation/Feasibility Study

September 1996

TABLE OF CONTENTS

TABLE OF CONTENTS	ii
LIST OF ATTACHMENTS	iv
SECTION 1: PURPOSE	1
A. Non-Aqueous Phase Liquid Evaluation	3
B. Ground Water Evaluation	3
C. Cultural Resources Investigation	4
D. Endangered & Threatened Species	4
E. Wetlands Assessment	5
F. Baseline Risk Assessment (Human and Ecological)	5
SECTION 2: TASK I - SCOPING	
(RI/FS Guidance Manual, Chapter 2)	6
A. Site Background	7
1. Collect and Analyze Existing Data and Document the Need for Additional Data	7
2. Conduct Site Visits	7
B. Project Planning	8
C. Scoping Deliverables	8
1. Phase 2 RI/FS Work Plan and Schedule	8
2. Field Operations Plan	10
3. Sampling and Analysis Plan	10
4. Quality Assurance Project Plan	10
5. Health and Safety/Contingency Plan	12
SECTION 3: TASK II - COMMUNITY RELATIONS	12
SECTION 4: TASK III SITE CHARACTERIZATION	
(RI/FS Guidance Manual, Chapter 3)	12
A. Field Investigation	13
1. Implement and Document Field Support Activities	13
2. Investigate and Define Site Physical, Chemical, Biological Characteristics	14
3. Identify and Define Sources of Contamination	14
4. Describe the Nature and Extent of Contamination	15
a. Identify Areas of Concern	15
B. Data Analyses	15
C. Data Management Procedures	16
1. Document Field Activities	16
2. Maintain Sample Management and Tracking	16
D. Site Characterization Deliverables	17
1. Site Characterization Summary Report	17
SECTION 5: TASK IV - IDENTIFICATION OF CANDIDATE TECHNOLOGIES	
(RI/FS Guidance Manual, Chapter 5.2; 5.4)	17
A. Conduct Literature Survey and Determine the Need for Treatability Testing	17

SECTION 6: TASK V - TREATABILITY STUDIES	
(RI/FS Guidance Manual, Chapter 5)	18
A. Document the Need for Treatability Studies	18
B. Evaluate Treatability Studies	18
C. Treatability Testing and Deliverables	18
1. Treatability Testing Work Plan	19
2. Treatability Study FOP	19
3. Treatability Study Evaluation Report	19
SECTION 7: TASK VI - BASELINE RISK ASSESSMENT	19
SECTION 8: TASK VII - DRAFT REMEDIAL INVESTIGATION REPORT	
(RI/FS Guidance Manual, Chapter 3.7.3)	20
SECTION 9: TASK VIII - DEVELOPMENT OF REMEDIAL ACTION	
OBJECTIVES AND SCREENING OF REMEDIAL ALTERNATIVES	
(RI/FS Guidance Manual, Chapter 4)	20
A. Development and Screening of Remedial Alternatives	20
1. Develop Remedial Action Objectives	20
2. Refine and Document Remedial Action Objectives	21
3. Develop General Response Actions	21
4. Identify Areas or Volumes of Media	21
5. Identify, Screen, and Document Remedial Technologies	21
6. Assemble and Document Alternatives	22
7. Refine Alternatives	22
B. Conduct and Document Screening Evaluation Of Each Alternative	22
C. Presentation on Remedial Action Objectives and Development and Screening of Alternatives	23
SECTION 10: TASK IX - FEASIBILITY STUDY REPORT	
(RI/FS GUIDANCE, CHAPTER 6)	23
A. Detailed Analysis of Alternatives	23
1. Apply Nine Criteria and Document Analysis	23
2. Compare Alternatives Against Each Other and Document the Comparison of Alternative	24
B. Detailed Analysis Deliverables	24
1. Feasibility Study Report	24

LIST OF ATTACHMENTS

Attachment A	Phase 2 RI/FS Work Completed by EPA . . .	25
Attachment B	RI/FS Guidance Information	27

STATEMENT OF WORK

Bridgeport Rental & Oil Services (BROS)
Logan Township, Gloucester County, New Jersey

Phase 2 Remedial Investigation/Feasibility Study

SECTION 1: PURPOSE

The purpose of this Statement of Work (SOW) is to outline those activities which need to be performed to complete the second phase remedial investigation and feasibility study (Phase 2 RI/FS as identified in the 1984 Record of Decision) for the BROS Site. The objective of the Phase 2 RI is to determine the nature and extent of Site-related contamination in ground water, surface water, sediments, wetlands and soils remaining at the Site following the lagoon cleanup (Lagoon Work). For the purposes of this effort, the Site is defined as the Bridgeport Rental and Oil Services Site ("the BROS Site" or "the Site") and includes the areal extent of contamination and all suitable areas in very close proximity to the contamination necessary for implementation of the response action. The BROS Site is located on Cedar Swamp Road in Logan Township, New Jersey. The Site includes contaminated or threatened ground water, wetlands, soils, surface water, and sediments. Based on the delineation and characterization of the Site contamination, the objective of the Phase 2 FS is to develop and evaluate the feasibility of potential remedial alternatives for mitigating any unacceptable human health and/or ecological risks posed by the Site contamination. The RI and FS are interrelated and may be conducted concurrently so that the data collected for the RI may be utilized in the development of the remedial alternatives for the FS, which in turn may determine both any additional data needs to be collected as part of the RI and the scope of any treatability studies, if necessary.

The U.S. Environmental Protection Agency (EPA), through an ARCS II contract with Malcolm Pirnie, Inc., has conducted several field investigation activities related to the Phase 2 RI/FS. Some of the various media/areas sampled and evaluated under the Phase 2 RI/FS include surface soils, subsurface soils, surface water, sediments, ground water and residential water supplies. Some of the other tasks completed at the Site include the following: bathymetric surveys of adjoining surface water bodies, aquifer slug tests of monitoring wells, tidal surveys, long-term ground water level monitoring, wetlands assessment and delineation, preliminary risk assessment (note: the preliminary risk assessment, performed by EPA, evaluated quantitatively only the potential human health risk due to the use of ground water, based on the sampling data available at the time, and only qualitatively evaluated surface soil, subsurface soil, sediment,

and surface water), and Phase I-A cultural resources survey. In addition, a total of thirteen technical memoranda have been prepared and submitted to EPA outlining the technical findings of these various sampling efforts. A more detailed list of the tasks that have been completed by EPA, to support the completion of the Phase 2 RI/FS, and a list of the technical memoranda is provided in Attachment A - Phase 2 RI/FS Work Completed by EPA. The technical findings have been collected in Attachment C - ARCS II Summary of the Phase 2 Remedial Investigation (RI) Work Performed to Date (Phase 2 Summary Report).

The Settling Defendants in U.S. v. Allied Signal, Inc., et al., Civ. Action No. 92-2726 (SSB) (DNJ) (hereinafter "Defendants") will complete the Phase 2 RI/FS and develop both a draft RI and FS report in accordance with this SOW, the Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA (U.S. EPA, Office of Emergency and Remedial Response, October 1988) and any other guidance documents used by EPA for the performance of an RI/FS. Defendants may also refer to, as appropriate, relevant State regulations, ASTM Standards, scientific literature, and engineering literature. A list of some useful references is provided in Attachment B - RI/FS Guidance Information. Specific citations to some references are noted throughout the text of this SOW where relevant, but these are not intended to exclude use of other relevant references. The general requirements for both the format and content of an RI/FS report are described in detail in the October 1988 guidance document. Defendants will furnish all necessary personnel, materials, and services needed, or incidental to, performing the Phase 2 RI/FS, except as otherwise specified in this SOW.

At the completion of the Phase 2 RI/FS, EPA will select a Phase 2 remedy or remedies for the BROS Site and will document this selection in one or more Record(s) of Decision (ROD(s)). The remedial action alternative selected by EPA will meet the cleanup standards specified in CERCLA Section 121. That is, the selected Phase 2 remedial action or actions will be protective of human health and the environment, will be expected to achieve, or else will include a waiver of, applicable or relevant and appropriate requirements (ARARs) of other laws, will be cost-effective, will utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable, and will address the statutory preference for treatment as a principal element. The Phase 2 remedy or remedies may address various Site media, including, but not limited to, specific areas of concern or "hot spots", separately or in combination or as part of a broader response action as EPA deems appropriate. The final Phase 2 RI/FS report, as approved by EPA, the baseline risk assessment, as approved by EPA, and the risk evaluation of remedial alternatives (if proposed by the Defendants and approved by EPA), will provide the information necessary to support the development of the Phase 2 ROD. These

documents, together with any public comments received on EPA's proposed remedy, will be reflected in the administrative record, which will form the basis for selecting the Phase 2 remedy or remedies.

As specified in CERCLA Section 104(a)(1), EPA will provide oversight of Defendants' activities throughout the Phase 2 RI/FS. Defendants will provide EPA with the necessary support to facilitate the initiation and conduct of oversight and related activities.

Based on the observations and information to date, as documented in the technical memoranda and the Phase 2 Summary Report, EPA has made the determination that, at a minimum, the following activities must be performed to satisfy additional information and data needs for the successful completion of the Phase 2 RI/FS.

A. Non-Aqueous Phase Liquid Evaluation (See, e.g., EPA. 1993b; EPA. 1991a; EPA. 1989m)

- Evaluate the existing data to determine the potential for Non-Aqueous Phase Liquid (NAPL) presence at the Site.
- Distinguish and delineate, to the extent practicable, potentially mobile free product from residual free product and the dissolved contamination of groundwater as it comes in contact with the NAPL.
- Develop and implement an investigative program as needed, to determine the location, extent and fate of NAPL at the Site.
- Develop methodologies for modeling NAPL dissolution, if applicable.

B. Ground Water Evaluation

- Install and sample monitoring wells and sample existing monitoring wells, as needed.
- Perform water level monitoring, as needed (See, e.g., EPA. 1985c).
- Develop and perform an aquifer testing program to determine hydraulic Site conditions including, at a minimum, full-scale pumping tests and step-drawdown tests (See, e.g., EPA. 1990a; EPA. 1990d; EPA. 1989a; EPA. 1989b; EPA. 1989c).
- Perform solute transport modeling.

- Perform fate and transport modeling of dissolved ground water contamination in source areas and along migration routes (See, e.g., EPA. 1989n).
- Perform ground water flow modeling to simulate current hydrological and hydrogeological Site conditions and to evaluate remedial scenarios including the discharge to surface water/wetlands.
- Perform studies to determine aquifer characteristics such as partition coefficients, desorption coefficients, pumping rates, durations, start-up/shut-down cycles and attainment of potential cleanup goals, to be used in development of alternatives for groundwater remediation. Batch and column leachability studies and solute transport modeling may be used as part of this effort (See, e.g., EPA. 1993c; EPA. 1989e; EPA. 1989m).
- Perform studies, as appropriate, to determine the feasibility of the various *in situ* remedial alternatives for ground water (See, e.g., EPA. 1989e).
- Evaluate active ground water remedies.
- Evaluate potential draw-down effects associated with remedial scenarios of ground water on the wetland areas.

C. Cultural Resources Investigation

- Perform a Stage IB Cultural Resources Survey in archaeologically sensitive areas.

D. Endangered & Threatened Species Investigation (See, e.g., EPA. 1995a)

- Perform a plant survey, including more detail than the plant survey previously conducted by EPA, and incorporate results into a threatened and endangered species evaluation.
- Perform a wildlife survey to identify animal species in or around the vicinity of the site, including aquatic species.
- Include Federal and State listed threatened and endangered species in the evaluation.

E. Wetlands Assessment (See, e.g., EPA. 1995a; EPA. 1995c; EPA. 1992b)

- Collect supplemental environmental samples in the original wetlands study area to confirm the findings of the first round of wetlands sampling. Collect additional samples to define the extent and level of contamination in these areas.
- Expand the wetlands delineation to include all areas potentially affected by Site-related contamination and/or remedial activities.
- Distinguish and delineate between sediment areas where NAPL remains and areas with no detectable NAPL in sediment, to the extent practicable.
- Evaluate the effects of contamination on the wetlands, and conduct an assessment of potential impacts to wetlands associated with remedial alternatives (this will include a wetlands functional assessment for any wetlands that will be affected by remedial alternatives) (See, e.g., EPA. 1993a).
- Re-evaluate the Floodplain assessment previously conducted by EPA and expand if necessary.

F. Baseline Risk Assessment (Human and Ecological Risk Assessment) (See, e.g., EPA. 1991c; EPA. 1991d; EPA. 1989h)

The Baseline Risk Assessment will have two major components. The first involves a human health evaluation while the second entails an ecological risk assessment. When scoping the Baseline Risk Assessment and calculating risk estimates, the Defendants will meet regularly with EPA and representatives of the State. The Defendants will complete the Baseline Risk Assessment to characterize accurately the potential human health and ecological risk or risks posed by the site as a whole or, if EPA deems appropriate, posed by specific areas of concern or "hot spots" and/or appropriate combinations of areas of concern or "hot spots" by providing the information noted below:

- Collect additional environmental samples and evaluate the data in detail to determine the magnitude of human health risks associated with the Site as a whole or, if EPA deems appropriate, posed by specific areas of concern or "hot spots" and/or appropriate combinations of areas of concern or "hot spots" (such as air, ground water, surface water, sediments, soil, and biota contamination) (See, e.g., EPA. 1989h).

- Collect additional environmental samples and evaluate the data in detail to determine the magnitude of ecological risks associated with the Site (See, e.g., EPA. 1995a).
- Upon EPA's approval Defendants may perform further biological surveys and analyses (such as tissue analyses, benthic surveys, or toxicity studies) including appropriate background/reference location samples to further refine the magnitude of the ecological risks associated with the Site (See, e.g., EPA. 1995a).
- Upon EPA's approval, Defendants may perform bioaccumulation studies utilizing appropriate organisms, which may include aquatic or terrestrial organisms, if applicable (See, e.g., EPA. 1995a).
- Perform the necessary modeling efforts to determine human health risks, if applicable.
- Perform the necessary modeling efforts to determine ecological risks, if applicable.

No later than fifteen (15) days after the effective date of the Consent Decree, Defendants shall meet with EPA to discuss and develop a schedule for all Phase 2 RI/FS activities and deliverables. No later than fifteen (15) days after that meeting, Defendants shall submit to EPA a proposed schedule for the Phase 2 RI/FS activities and deliverables. Upon approval by EPA, after a reasonable opportunity for review and comment by NJDEP, the schedule for the Phase 2 RI/FS activities and deliverables shall be incorporated into and become enforceable under this Consent Decree.

The following outline for the performance of the work described above is segregated into RI/FS tasks in a manner consistent with the 1988 RI/FS Guidance.

SECTION 2: TASK I - SCOPING
 (RI/FS Guidance Manual, Chapter 2)

Defendants will outline the specific project scope in a work plan. Due to the potential complexities to be encountered at the BROS Site, it may be necessary to phase the work required based on the amount of available information, and to modify the work plan accordingly to satisfy the objectives of the Phase 2 RI/FS.

When scoping the specific aspects of a project, Defendants must meet with EPA to discuss all project planning decisions and special concerns associated with the Site. The following

activities will be performed by Defendants as part of the project planning process:

A. Site Background

Defendants will gather and analyze the existing Site background information and will conduct Site visits to assist in planning the scope of the RI/FS.

1. Collect and Analyze Existing Data and Document the Need for Additional Data

Before planning RI/FS activities, all existing Site data will be thoroughly compiled and reviewed by Defendants. This information includes, but is not limited to, the Phase 2 Summary Report and all Phase 2 RI/FS technical memoranda prepared by EPA's ARCS II contractor. Furthermore, this activity should include an assessment of all presently available data relating to the varieties and quantities of hazardous substances at the Site, including, but not limited to, specific areas of concern or "hot spots" as appropriate and, if appropriate, past disposal practices. This will also include results from any previous sampling events that may have been conducted. Defendants will refer to Table 2-1 of the RI/FS Guidance (Attachment B) for a comprehensive list of data collection information sources. This information will be utilized in determining additional data needs to characterize the Site, to better define potential applicable or relevant and appropriate requirements (ARARs), and to develop a range of preliminarily identified remedial alternatives. Data Quality Objectives (DQOs) will be established subject to EPA approval which specify the usefulness of existing data. Decisions on the necessary data and DQOs will be made by EPA, taking into consideration the matrix complexities and limitations particular to the Site.

2. Conduct Site Visits

Defendants will conduct Site visits during the project scoping phase to assist in developing a conceptual understanding of source areas, areas of concern or "hot spots," and the extent of contamination, as well as potential exposure pathways and receptors at the Site. During the Site visits, Defendants will observe the Site's physiography, hydrology, geology, and demographics, as well as natural resource, ecological and cultural features. In addition, preliminary appropriate background/reference locations will be identified. This information will be utilized to

better scope the project and to determine the extent of additional data necessary to characterize the Site, better define potential ARARs, and narrow the range of preliminarily identified remedial alternatives.

B. Project Planning

Once Defendants have collected and analyzed existing data and conducted a Site visit, the specific project scope will be planned. Project planning activities include identifying data needs, developing a work plan, designing a data collection program, and identifying health and safety protocols. Defendants will meet with EPA before the drafting of the scoping deliverables below.

C. Scoping Deliverables

At the conclusion of the project planning phase, the Defendants will submit a Phase 2 RI/FS work plan (hereinafter the "Work Plan") which includes, at a minimum, a detailed description of the activities to be performed during the RI and FS and a schedule for implementation of this work. The Phase 2 RI/FS Work Plan will primarily consist of the Site Management Plan (SMP) and the Field Operations Plan (FOP). The SMP will outline, at a minimum, a strategy for managing the RI/FS activities, an organizational chart identifying the roles and responsibilities of technical and management staff, and vitae curricula for key personnel. The FOP will consist of the Sampling and Analysis Plan (SAP), the Quality Assurance Project Plan (QAPP), and the Health and Safety/Contingency Plan (HASCP), each of which is discussed in greater detail below. The Phase 2 RI/FS Work Plan must be reviewed and approved by EPA prior to the initiation of field activities.

1. Phase 2 RI/FS Work Plan and Schedule

A Work Plan summarizing and documenting the decisions and evaluations completed during the scoping process will be submitted to EPA for review and approval. The Work Plan will include a comprehensive description of the work to be performed, including the methodologies to be utilized, as well as a corresponding schedule for completion of the work. In addition, the Work Plan will explain the rationale for Defendants' choice of specific tasks and methods. Specifically, the Work Plan will present a statement of the problem(s) and potential problem(s) posed by the Site and the objectives of the Phase 2 RI/FS. Furthermore, the plan will include a Site background summary setting forth the Site description including the geographic location of the Site, and to the extent possible, a description

of the Site's physiography, hydrology, geology, demographics, ecological, cultural and natural resource features; a synopsis of the Site history and a description of previous responses that have been conducted at the Site by local, state, federal, or private parties; a summary of the existing data in terms of physical and chemical characteristics of the contaminants identified and their distribution among the environmental media at the Site, including, but not limited to, specific areas of concern or "hot spots". The additional information collected during future sampling events will be utilized in the preparation of the final Baseline Risk Assessment and to support the risk evaluation of remedial alternatives, if EPA deems appropriate. The Work Plan will recognize EPA's preparation of the preliminary risk assessment and community relations plan. In addition, the plan will include a description of the Site management strategy, with input from EPA during scoping and a preliminary identification of remedial alternatives and data needs for evaluation of remedial alternatives. The plan will reflect coordination with treatability study requirements (see Tasks IV and V). It will include a process for and manner of identifying federal and state ARARs (chemical-specific, location-specific and action-specific) to assist in the development of remedial action objectives, preliminary remediation goals and the initial identification of remedial alternatives and ARARs associated with particular actions. ARAR identification will continue as Site conditions, contaminants, and remedial action alternatives are better defined.

Finally, the major part of the Work Plan is a detailed description of the tasks to be performed, information needed for each task and for the Baseline Risk Assessment, information to be produced during and at the conclusion of each task, and a description of the work products that will be submitted to EPA. This will include, at a minimum, the following:

- 1) deliverables which are set forth in the remainder of this SOW;
- 2) a schedule for each of the required activities which is consistent with the RI/FS guidance;
- 3) a project management plan, including a data management plan (e.g., requirements for project management systems and software, minimum data requirements, data format and backup data management);
- 4) monthly progress reports to EPA tracking work activities and financial information; and,

- 5) presentations to EPA at the conclusion of each major phase of the Phase 2 RI/FS.

Defendants will refer to Appendix B of the RI/FS Guidance for a comprehensive description of the contents required in the Work Plan. Because of the potential for unknown conditions at the Site and the iterative nature of the Phase 2 RI/FS, additional data requirements and analyses may be identified throughout the process. Whenever such requirements are identified, Defendants will submit a technical memorandum documenting the need for additional data, and identifying the DQOs. In addition, Defendants are responsible for obtaining additional field information and analytical data, as needed by EPA. Such information will be obtained in a manner consistent with the general scope and objectives of the Phase 2 RI/FS.

2. Field Operations Plan

Defendants will prepare a FOP that consists of a SAP, QAPP, and HASCP, at a minimum.

3. Sampling and Analysis Plan

Defendants will prepare a SAP to ensure that sample collection and analysis activities are conducted in accordance with technically acceptable protocols such that the resulting data meet DQOs, taking into account matrix complexities and limitations associated with the Site. The SAP provides a mechanism for planning field activities to fulfill sampling objectives. At a minimum, the SAP will provide the following: detailed maps depicting sampling and data collection locations; a detailed description of all sampling, analysis, and testing to be performed including frequencies; a detailed description of sampling, sample storage, sample transport, analysis, and testing methods and handling procedures, including a description of equipment to be used; a discussion of how the information generated from the sampling, analysis, and testing will be utilized during the Phase 2 RI/FS; and, a schedule for implementation of the tasks outlined in the SAP (including projected milestones).

4. Quality Assurance Project Plan

The QAPP will describe the quality assurance and quality control (QA/QC) protocols that will be followed to ensure that project DQOs will be achieved. The DQOs will ensure that all data obtained by appropriate

methods can accurately identify potential contaminants of concern at concentrations that are relevant to EPA's potential remedial decisions. In addition, the QAPP will address sampling procedures, sample custody, analytical procedures, personnel qualifications and data reduction, validation, and reporting. Field personnel will be made available for EPA QA/QC training and orientation where applicable. In advance of any analysis of samples by any laboratory, Defendants will demonstrate, to EPA's satisfaction, that such laboratory is qualified to conduct the proposed work. This includes use of methods and analytical protocols for the chemicals of concern in the media of interest within detection and quantification limits consistent with both QA/QC procedures and DQOs approved in the QAPP for the Site by EPA. Each laboratory to be used will have and follow an approved QA program. If a laboratory not in the Contract Laboratory Program (CLP) is selected, methods consistent with CLP methods that would be used at this Site for the purposes proposed, and QA/QC procedures approved by EPA, will be used. If the laboratory is not in the CLP, a laboratory QA program will be submitted for EPA review and approval. EPA may require that Defendants submit detailed information to demonstrate that the laboratory is qualified to conduct the work, including information on personnel qualifications, equipment and material specifications. Defendants will provide assurances that EPA has access to laboratory personnel, equipment and records for sample collection, transportation and analysis.

Development and implementation of the QAPP will be consistent with the "Region II CERCLA Quality Assurance Manual", EPA, Region II, October, 1989.

The QAPP shall be organized by the following sections:

- Title Page
- Table of Contents
- Project Description
- Project Organization and Responsibility
- Quality Assurance Objectives
- Sampling Procedures
- Sample Custody
- Calibration Procedures and Frequency
- Analytical Procedures
- Data Reduction, Validation, and Reporting
- Internal Quality Control Checks
- Performance and Systems Audit
- Preventive Maintenance
- Specific Routine Procedures to Assess Data Precision, Accuracy, and Completeness

- Corrective Action
- Quality Assurance Reports to Management

5. Health and Safety/Contingency Plan

The HASCP shall address the protection of health, safety and response to contingencies which could affect health, safety and the environment during implementation of the Phase 2 RI/FS. The HASCP shall be prepared in conformance with Defendants' health and safety program, and in compliance with OSHA regulations and protocols. The HASCP shall include the 11 elements described in the RI/FS Guidance. EPA will not approve Defendants' HASCP, but rather EPA will review it to ensure that all necessary elements are included, and that the plan provides for the protection of human health and the environment.

SECTION 3: TASK II - COMMUNITY RELATIONS

(See, e.g., EPA. 1988c; EPA. 1988d)

The development and implementation of community relations activities are the responsibility of EPA and the Defendants. The critical community relations planning steps performed by EPA and the Defendants include conducting community interviews and developing a community relations plan. Although implementation of the community relations plan is the responsibility of EPA, Defendants may assist by providing information regarding the Site's history, participating in public meetings, or by preparing fact sheets for distribution to the general public. EPA will make appropriate information available to all interested parties for comment and place such information in the Administrative Record. EPA will respond to all significant comments received during the formal public comment period on any proposed plan. In addition, Defendants may establish a community information repository, at or near the Site, to house one copy of the administrative record. The extent of Defendants' involvement in community relations activities is left to the discretion of EPA. Defendants' community relations responsibilities, if any, will be specified in the community relations plan to be prepared by EPA. All PRP-conducted community relations activities will be subject to oversight by EPA.

SECTION 4: TASK III - SITE CHARACTERIZATION

(RI/FS Guidance, Chapter 3)

As part of the RI, Defendants will perform the activities described in this task, including the preparation of a Site characterization summary and an RI report. Defendants will identify sources of contamination, the nature, extent, and volume of the sources of contamination, including their physical and chemical constituents; surface and subsurface pathways of

migration; any areas of concern or "hot spots" as appropriate; and actual and potential receptors of the contamination. Contaminant levels at various locations will be compared to background in the affected media. Defendants will also investigate the extent of migration of this contamination as well as its volume and any changes in its physical or chemical characteristics, to provide for a comprehensive understanding of the nature and extent of contamination at the Site. The defendants shall use contaminant fate and transport modeling.

During this phase of the Phase 2 RI/FS, the various components of the Work Plan are implemented. Field data are collected and analyzed to provide the information required to accomplish the objectives of the study. Defendants will notify EPA at least two weeks in advance of the field work regarding the planned dates for field activities, including ecological field surveys, field layout of the sampling grid, excavation, installation of wells, initiating sampling, installation and calibration of equipment, pump tests, and initiation of analysis and other field investigation activities. Defendants will demonstrate that each laboratory to be used and the type of laboratory analyses to be conducted during Site characterization meet the specific QA/QC requirements and the DQOs of the Site investigation as specified in the SAP. In view of the potential conditions at the Site, activities are often iterative; thus, to satisfy the objectives of the Phase 2 RI/FS, it may be necessary for Defendants to supplement the work specified in the initial Work Plan. In addition to the deliverables below, Defendants will provide a monthly progress report and participate in meetings related to critical milestones for the Phase 2 RI/FS.

A. Field Investigation

The field investigation includes the gathering of data to define Site physical, chemical, and biological characteristics, sources of contamination, and the nature and extent of contamination including but not limited to defining specific areas of concern or "hot spots" at the Site. These activities will be performed by Defendants in accordance with the Work Plan, and at a minimum, will address the following:

1. Implement and Document Field Support Activities

Defendants will initiate field support activities following approval of the Work Plan. Field support activities may include obtaining access to the Site, scheduling, and procuring equipment, office space, laboratory services, and/or contractors. Defendants will notify EPA at least two weeks prior to initiating field support activities. Defendants will also notify

EPA in writing upon completion of field support activities.

2. Investigate and Define Site Physical, Chemical, Biological Characteristics

Defendants will collect data on the physical, chemical, and biological characteristics of the Site and its surrounding areas including the physiography, geology, and hydrology, and specific physical and biological characteristics identified in the Work Plan. This information will be ascertained through a combination of physical measurements, observations, and sampling efforts and will be utilized to define potential transport pathways and human and ecological receptor populations. In defining the Site's physical characteristics Defendants will also obtain sufficient engineering data (such as pumping characteristics) for the projection of contaminant fate and transport, and development and screening of remedial action alternatives, including information to assess treatment technologies.

3. Identify and Define Sources of Contamination

The Defendants will locate and delineate each source of contamination. For each location, the areal extent and depth of contamination will be determined by sampling at incremental depths on a sampling grid. The physical characteristics and chemical constituents along with their concentrations will be determined for all known and discovered sources of contamination. Defendants will conduct sufficient sampling to define the boundaries of the contaminant sources, including any residual lagoon contamination, to the level established in the QAPP by achieving the DQOs.

Defining each source of contamination will include analyzing the potential for contaminant release (e.g., long term leaching from soil), NAPL dissolution, contaminant mobility and persistence, and characteristics important for evaluating remedial actions, including information to assess treatment technologies.

4. Describe the Nature and Extent of Contamination

Defendants will gather information to describe the nature and extent of contamination as a final step during the field investigation. To describe the nature and extent of contamination, Defendants will utilize the information on Site physical, chemical, and

biological characteristics and sources of contamination to give a preliminary estimate of the contaminants that may have migrated. Defendants will then implement an iterative monitoring program and any study program identified in the Work Plan such that by using analytical techniques sufficient to detect and quantify the concentration of contaminants, the migration of contaminants through the various media at the Site can be determined. In addition, Defendants will gather data for modeling contaminant mobility. This process will be continued until the area and depth of contamination, to the contamination levels established in the QAPP, are known. Defendants will use the information on the nature and extent of contamination in the preparation of the Baseline Risk Assessment for the Site.

a. Identify Areas of Concern or "Hot Spots"

Upon EPA's approval, the Defendants may, as part of describing the nature and extent of contamination, identify discrete areas of concern or "hot spots" based on the results of the site-wide environmental sampling effort and previous relevant information. An area of concern or "hot spot" can be defined as any location (existing or former) where hazardous substances are or were known to have been discharged, generated, manufactured, refined, transported, stored, handled, treated, or disposed or where the hazardous substances have migrated. An area of concern or "hot spot" may also be an area in which, through sampling, contaminants have been detected in high concentrations. Potential receptors (human and ecological) may come into contact with one or more areas of concern or "hot spots".

B. Data Analyses

Defendants will analyze and evaluate the data to describe: (1) Site physical, chemical, and biological characteristics, (2) contaminant source characteristics, (3) nature and extent of contamination and (4) contaminant fate and transport. Analytical results for the Site/contaminant source characteristics, and extent of contamination are utilized in the evaluation of contaminant fate and transport. The evaluation will include the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination as well as mobility and persistence of contaminants. Where modeling is required, such models will be identified to EPA in a technical memorandum prior to their use. All data and

programming, including any proprietary programs, will be made available to EPA together with a sensitivity analysis. The RI data will be presented in a format that is acceptable to EPA and which will facilitate the preparation of the Baseline Risk Assessment. Defendants will agree to discuss and then collect any data required to address any data or information gaps identified by EPA for the completion of the Baseline Risk Assessment. (See "Guidance for Data Useability in Risk Assessment - OSWER Directive # 9285.7-05 - October 1990.) Also, this evaluation will provide any information relevant to Site characteristics necessary to evaluate the need for remedial action in the Baseline Risk Assessment and to develop and evaluate remedial alternatives in the FS. Analyses of data collected for Site characterization will meet the DQOs developed in the QAPP.

C. Data Management Procedures

Defendants will document the quality and validity of field and laboratory data compiled during the RI/FS.

1. Document Field Activities

Information gathered during Site characterization will be documented in a consistent fashion and will be recorded adequately by Defendants in well maintained field logs and laboratory reports. The method(s) of documentation must be specified in the Work Plan. Field logs must be utilized to document observations, measurements, and significant events that have occurred during field activities. Laboratory reports must document sample custody, analytical responsibility, analytical results, adherence to prescribed protocols, nonconformity events, corrective measures, and/or data deficiencies.

2. Maintain Sample Management and Tracking

Defendants will maintain field reports, sample shipment records, analytical results, and QA/QC reports to ensure that only validated analytical data are reported and utilized in the development and evaluation of remedial alternatives. Analytical results developed under the Work Plan will not be included in any Site characterization report unless accompanied by or cross-referenced to a corresponding QA/QC report. In addition, Defendants will establish a data security system to safeguard chain-of custody forms and other project records to prevent loss, damage, or alteration of project documentation.

D. Site Characterization Deliverables

Defendants will prepare the preliminary Site characterization summary and the remedial investigation report.

1. Site Characterization Summary Report

After completing field sampling and analysis, Defendants will prepare a Site characterization summary report. This report will review the investigative activities that have taken place, and describe and display Site data documenting the location and characteristics of surface and subsurface features and contamination at the Site including the affected medium, location, types, physical state, concentration of contaminants and quantity. In addition, the location, dimensions, physical condition and varying concentrations of each contaminant throughout each source and the extent of contaminant migration through each of the affected media, including delineation of areas of concern or "hot spots", as appropriate, will be documented. The Site characterization summary will provide the preliminary reference to develop the Baseline Risk Assessment and to evaluate the development and screening of remedial alternatives and the refinement and identification of ARARs.

SECTION 5: TASK IV - IDENTIFICATION OF CANDIDATE TECHNOLOGIES (RI/FS Guidance Manual, Chapter 5.2; 5.4)

Defendants will identify in a technical memorandum, subject to EPA review and approval, candidate technologies for a treatability studies program during project planning (Task I). The listing of candidate technologies will cover the range of technologies required for alternatives analysis (Task IX). The specific data requirements for the testing program will be determined and refined during Site characterization and the development and screening of remedial alternatives (Tasks II and IX, respectively).

A. Conduct Literature Survey and Determine the Need for Treatability Testing

Defendants will conduct a literature survey to gather information on performance, relative costs, applicability, removal efficiencies, operation and maintenance (O&M) requirements, and implementability of candidate technologies (See, e.g., EPA. 1990g; EPA. 1987b).

SECTION 6: TASK V - TREATABILITY STUDIES
(R1/FS Guidance Manual, Chapter 5)

A. Document the Need for Treatability Studies

If remedial actions involving treatment are identified by Defendants or EPA, treatability studies will be required except where Defendants can demonstrate to EPA's satisfaction that they are not needed. Where treatability studies are needed, initial treatability testing activities (such as research and study design) will be planned to occur concurrently with Site characterization activities.

Treatability testing will be performed by Defendants to assist in the detailed analysis of alternatives. In addition, if applicable, testing results and operating conditions will be used in the detailed design of the selected remedial technology.

If practical candidate technologies have not been sufficiently demonstrated, or cannot be adequately evaluated for this Site on the basis of available information, treatability testing will be conducted. Where it is determined by EPA that treatability testing is required, and unless Defendants can demonstrate to EPA's satisfaction that they are not needed, Defendants will submit a statement of work to EPA outlining the steps and data necessary to evaluate and initiate the treatability testing program.

B. Evaluate Treatability Studies

Once a decision is made to perform treatability studies, EPA will determine, with input from the Defendants, the type of treatability testing to use (e.g., bench versus pilot). Because of the time required to design, fabricate, and install pilot scale equipment as well as perform testing for various operating conditions, the decision to perform pilot testing should be made as early in the process as possible to minimize potential delays of the FS. To assure that a treatability testing program is completed on time, and with accurate results, Defendants will either submit a separate treatability testing work plan or an amendment to the original Site Work Plan for EPA review and approval.

C. Treatability Testing and Deliverables

Where treatability testing is conducted, the deliverables that shall be required, in addition to the memorandum identifying candidate technologies, include a Work Plan, a sampling and analysis plan, and a final treatability evaluation report. EPA may also require a treatability study health and safety plan, where appropriate.

1. Treatability Testing Work Plan

Defendants will prepare a treatability testing work plan or amendment to the original Site Work Plan for EPA review and approval describing the Site background, remedial technology(ies) to be tested, test objectives, experimental procedures, treatability conditions to be tested, measurements of performance, analytical methods, data management and analysis, health and safety, and residual waste management. The DQOs for treatability testing must be documented as well. If pilot scale treatability testing is to be performed, the pilot-scale work plan will describe pilot plant installation and start-up, pilot plant operation and maintenance procedures, operating conditions to be tested, a sampling plan to determine pilot plant performance, and a detailed health and safety plan. If testing is to be performed off-site, permitting requirements will be addressed in the Work Plan.

2. Treatability Study FOP

If the original SAP, QAPP, and/or HASCP is/are not adequate for defining the activities to be performed during the treatability tests, a separate treatability study FOP or amendment to the original FOP will be prepared by Defendants for EPA review and approval. Task I, Item c. of this statement of work provides additional information on the requirements of the FOP.

3. Treatability Study Evaluation Report

Following completion of treatability testing, Defendants will analyze and interpret the testing results in a technical report to EPA. Depending on the sequence of activities, this report may be a part of the Phase 2 RI/FS report or a separate deliverable. The report will evaluate each technology's effectiveness, implementability, cost and actual results as compared with predicted results. The report will also evaluate full scale application of the technology, including a sensitivity analysis identifying the key parameters affecting full-scale operation.

SECTION 7: TASK VI - BASELINE RISK ASSESSMENT

Defendants will collect additional environmental samples and perform the necessary evaluations and modeling, if applicable, to support the Baseline Risk Assessment, consistent with EPA Superfund Guidance on human health and ecological risk assessment (Attachment B).

SECTION 8: TASK VII - DRAFT REMEDIAL INVESTIGATION REPORT
(RI/FS Guidance Manual, Chapter 3.7.3)

Defendants will prepare and submit a draft RI report to EPA for review and approval. This report will summarize results of field activities to characterize the Site, sources of contamination, and nature and extent of contamination, which may include delineation of discrete areas of concern or "hot spots", and the fate and transport of contaminants. In addition, the data presented in the Phase Two Summary Report must be considered and assimilated by the Settling Defendants and must be part of the information that contributes to the technical observations and conclusions presented in the draft final RI report. Defendants will refer to the RI/FS Guidance for an outline of the report format and contents. Following comment by EPA, Defendants will prepare a final RI report which satisfactorily addresses EPA's comments.

SECTION 9: TASK VIII - DEVELOPMENT OF REMEDIAL ACTION
OBJECTIVES AND SCREENING OF REMEDIAL ALTERNATIVES
(RI/FS Guidance Manual, Chapter 4)

A. Development and Screening of Remedial Alternatives

The development and screening of remedial alternatives is performed to develop an appropriate range of waste management options that will be evaluated. This range of alternatives will include as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but varying in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options involving both treatment and containment; and a no-action alternative. The following activities will be performed by Defendants as part of the development and screening of remedial alternatives.

Defendants will begin to develop and evaluate a range of appropriate waste management options that at a minimum ensure protection of human health and the environment, concurrent with the RI Site characterization task.

1. Develop Remedial Action Objectives

Once existing Site information has been analyzed and the potential Site risks are determined, Defendants will propose remedial action objectives for each actually or potentially contaminated medium, which may include addressing specific areas of concern or "hot spots" or combination of areas or "hot spots" based upon similarities of contaminants, risks, and

engineering considerations. The proposed remedial action objectives will be the subject of a presentation made to EPA and the State. Defendants will identify a preliminary range of broadly defined potential remedial action alternatives and associated technologies. The range of potential alternatives should encompass where appropriate, alternatives in which treatment significantly reduces the toxicity, mobility, or volume of the waste; alternatives that involve containment with little or no treatment; alternatives involving both treatment and containment, as appropriate; and a no-action alternative. Defendants will address any comments, made by EPA during the presentation, in the appropriate document.

2. Refine and Document Remedial Action Objectives

Based on the Baseline Risk Assessment, and based on EPA's comments, Defendants will review and, if necessary, modify the Site-specific remedial action objectives, specifically the preliminary remediation goals (PRGs), that were previously established. The revised PRGs will be documented in a technical memorandum that will be reviewed and approved by EPA. These modified PRGs will specify the contaminants and media of interest, specific areas of concern or "hot spots", exposure pathways and receptors, and an acceptable contaminant level or range of levels (at particular locations for each exposure route).

3. Develop General Response Actions

Defendants will develop general response actions for each medium of interest, which may include, but shall not be limited to, specific areas of concern or "hot spots", defining containment, treatment, excavation, pumping, or other actions, singly or in combination, to satisfy the remedial action objectives.

4. Identify Areas or Volumes of Media

Defendants will identify areas or volumes of media to which general response actions may apply, taking into account requirements for protectiveness as identified in the remedial action objectives. The chemical and physical characterization of the Site will also be taken into account.

5. Identify, Screen, and Document Remedial Technologies

Defendants will identify and evaluate technologies applicable to each general response action to eliminate

those that cannot be implemented at the Site. General response actions will be refined to specify remedial technology types. Technology process options for each of the technology types will be identified either concurrent with the identification of technology types, or following the screening of the considered technology types. Process options will be evaluated on the basis of effectiveness, implementability, and cost factors to select and retain one or, if necessary, more than one representative processes for each technology type.

6. Assemble and Document Alternatives

Defendants will assemble selected representative technologies into alternatives for each affected medium or operable unit. Together, all of the alternatives will represent a range of treatment and containment combinations that will address either the Site, which may include, but shall not be limited to, specific areas of concern or "hot spots", or the operable unit as a whole.

7. Refine Alternatives

Defendants will refine the remedial alternatives to identify contaminant volume addressed by the proposed process and sizing of critical unit operations as necessary. Sufficient information will be collected for an adequate comparison of alternatives. PRGs for each chemical of concern in each medium will also be modified as necessary to incorporate any new risk assessment information presented in the Baseline Risk Assessment report. Additionally, ARARs will be updated as the remedial alternatives are refined.

B. Conduct and Document Screening Evaluation of Each Alternative

Defendants may perform a final screening process based on short and long term aspects of effectiveness, implementability, and relative cost. Generally, this screening process is only necessary when there are many feasible alternatives available for detailed analysis. If necessary, the screening of alternatives will be conducted to assure that only the alternatives with the most favorable composite evaluation of all factors are retained for further analysis. The range of remaining alternatives will include options that use treatment technologies and permanent solutions to the maximum extent practicable.

C. Presentation on Remedial Action Objectives and Development and Screening of Alternatives

Defendants will make a presentation to EPA and the State during which Defendants will identify the remedial action objectives, summarize the technology types and process options, and summarize the results and reasoning employed in screening, arraying alternatives that remain after screening, and identifying the action-specific ARARs for the alternatives that remain after screening. Defendants will address any comments made by EPA during this presentation in the appropriate document.

SECTION 10: TASK IX - FEASIBILITY STUDY REPORT
(RI/FS Guidance Manual, Chapter 6)

The detailed analysis of remedial alternatives will be conducted by Defendants to provide EPA with the information needed to allow for the selection of the Site remedy or remedies. This analysis is the final task to be performed by Defendants during the FS.

A. Detailed Analysis of Alternatives

Defendants will conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of nine evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

1. Apply Nine Criteria and Document Analysis

Defendants will apply nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with, or include a waiver of, ARARs; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; (7) cost; (8) state (or support agency) acceptance; and (9) community acceptance. (Note: criteria 8 and 9 are considered after the Phase 2 RI/FS report has been released to the general public.) For each alternative Defendants should provide: (1) a description of the alternative that outlines the waste management strategy involved and

identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment. Defendants do not have direct input on criteria (8) state (or support agency) acceptance and (9) community acceptance, as these will be addressed by EPA.

2. Compare Alternatives Against Each Other and Document the Comparison of Alternatives

Defendants will perform a comparative analysis of the remedial alternatives. That is, each alternative will be compared against the others using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative is reserved by EPA.

B. Detailed Analysis Deliverables

Defendants will submit a draft FS report to EPA for review and approval. Once EPA's comments have been addressed by Defendants to EPA's satisfaction, the final FS report may be bound with the final RI report.

1. Feasibility study report

Defendants will prepare a draft FS report for EPA review and comment. This report, as ultimately adopted or amended by EPA, provides a basis for remedy selection by EPA and documents the development and analysis of remedial alternatives. Defendants will refer to the RI/FS Guidance for an outline of the report format and the required report content. Defendants will summarize the findings of the draft FS report and discuss EPA's and the State's preliminary comments and concerns associated with the draft FS report. Defendants will prepare a final FS report which satisfactorily addresses EPA's and the State's comments.

Attachment A
Phase 2 RI/FS Work Completed by EPA

- Collection and analysis of 20 surface soil samples in 3 separate areas in site vicinity.
- Collection and analysis of 5 surface water and 5 sediment samples in Little Timber Creek.
- Completion of a bathymetric survey of Swindell Pond and Gaventa Pond.
- Collection and analysis of 3 surface water and 3 sediment samples in Swindell Pond.
- Collection and analysis of 2 surface water and 2 sediment samples in Gaventa Pond.
- Evaluation of 25 previously existing monitoring wells (both on-site and off-site).
- Installation of 22 monitoring wells near the site to supplement existing wells.
- Collection and analysis of groundwater samples from 22 newly installed wells and 9 previously exiting wells in September 1990.
- Completion of aquifer slug tests in the new and existing monitoring wells (31 wells).
- Completion of a tidal survey to determine effects on groundwater flow.
- Completion of a Coastal Zone Management Program Review.
- Performed a Flood Hazard Area Assessment.
- Installation of 8 additional monitoring wells farther downgradient from the site to delineate the contaminant plume boundaries in 1993.
- Collection of monthly water level measurements for a period covering over 3 years (from September 1990 to September 1993).
- Collection and analysis of groundwater samples from 13 monitoring wells (including the 8 wells installed in 1993) in March 1993.

- Completion of a well survey of local domestic and public water supplies to identify residential well sampling locations.
- Collection and analysis of groundwater samples from numerous residential wells on 3 separate events in October 1992, January 1993, and March 1993.
- Delineation of nearby wetlands and assessment of a wetlands study area.
- Completion of a preliminary human risk assessment for contaminated groundwater.
- Development of 13 technical memoranda summarizing the technical findings of the above activities.
- Completion of a Phase IA Cultural Resources Survey of the site.
- Performed a Threatened and Endangered Species Assessment.
- Completion of an identification and screening of alternatives for groundwater remediation at the site.

Attachment B
RI/FS Guidance Information

The following list, although not comprehensive, comprises many of the EPA regulations and EPA guidance documents that apply to the RI/FS process.¹ The list is grouped into the following categories: regulations, general RI/FS guidance, community relations, quality assurance/quality control (QA/QC), health and safety plan (HASP), applicable or relevant and appropriate requirements (ARARs), ground water, risk assessment, feasibility study, Record of Decision (ROD) and Region II Guidance.

Regulations²

The (revised) National Contingency Plan

OSHA Regulations in 29 CFR 1910. 120 (Federal Register 45654, December 19, 1986).

General RI/FS Guidance

- EPA. 1993e. Subsurface Characterization and Monitoring Techniques. A Desk Reference. Volume I; Solids and Ground Water. EPA/625/R-93/003a.
- EPA. 1993f. Subsurface Characterization and Monitoring Techniques. A Desk Reference. Volume II: The Vadose Zone, Field Screening and Analytical Methods. EPA/625/R-93/003b.
- EPA. 1991b. Guidance on Oversight of Potentially Responsible Party Remedial Investigations and Feasibility Studies. OSWER Directive No. 9835.3
- EPA. 1990f. Performance of Risk Assessments in Remedial Investigation /Feasibility Studies (RI/FSS) Conducted by Potentially Responsible Parties (PRPs). OSWER Directive No. 9835.15.
- EPA. 1989g. Interim Guidance on Potentially Responsible Party Participation in Remedial Investigation and Feasibility Studies. Appendix A to OSWER Directive No. 9355.3-01.

1. The list will be updated periodically during the RI/FS to reflect revisions or new guidance.

2. Note that a list of ARARs will be prepared separately as part of the RI/FS process.

- EPA. 1988f. Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA, OSWER Directive No. 9355.3-01.
- EPA. 1987a. A Compendium of Superfund Field Operations Methods. EPA/540/P-87/001a, OSWER Directive No. 9355.0-14.
- EPA. 1984a. EPA NEIC Policies and Procedures Manual. EPA-330/9-78-001-R.
- EPA. 1985a. Water Quality Assessment: A Screening Procedure For Toxic and Conventional Pollutants in Surface and Ground Water - Part I. EPA/600/6-85/002a.
- EPA. 1985b. Water Quality Assessment: A Screening Procedure For Toxic and Conventional Pollutants in Surface and Ground Water - Part II. EPA/600/6-85/002b.

Community Relations

- EPA. 1988c. Community Relations During Enforcement Activities And Development of the Administrative Record. OSWER Directive No. 9836.0-1A.
- EPA. 1988d. Community Relations in Superfund: A Handbook. OSWER Directive No. 9230.0#3B.

QA/QC

- EPA. 1987c. Data Quality Objectives for Remedial Response Activities. EPA/540/G-87/003. OSWER Directive No. 9335.0-7B.
- EPA. 1982. Users Guide to the EPA Contract Laboratory Program. Sample Management Office.
- EPA. 1980a. Guidelines and Specifications for Preparing Quality Assurance Project Plans. QAMS-004/80.
- EPA. 1980b. Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans. QAMS-005/80.

HASP

- EPA. 1981. Health and Safety Requirements of Employees Employed in Field Activities. EPA Order No. 1440.2.

ARARs

- EPA. 1988a. CERCLA Compliance with Other Laws Manual-Draft. Vol. I. OSWER Directive No. 9234.1-01.
- EPA. 1988b. CERCLA Compliance with Other Laws Manual-Draft. Vol. II. OSWER Directive No. 9234.1-02.
- EPA. 1987d. Interim Guidance on Compliance with Applicable or Relevant and Appropriate Requirements. OSWER Directive No. 9234.0-05.

Ground Water

- EPA. 1993b. Evaluation of the Likelihood of DNAPL Presence at NPL Sites. OSWER Directive No. 9355.4-13.
- EPA. 1993c. Guidance for Evaluating the Technical Impracticability of Ground-Water Restoration. EPA/540-R-93-080.
- EPA. 1991a. Estimating Potential for Occurrence of DNAPL at Superfund Sites. OSWER Directive No. 9355.4-07FS.
- EPA. 1990a. A New Approach and Methodologies for Characterizing the Hydrogeologic Properties of Aquifers. EPA/600/2-90/002.
- EPA. 1990d. Measurement of Hydraulic Conductivity Distributions: A Manual of Practice. EPA/600/8-90/046.
- EPA. 1989a. Evaluation of Ground-Water Extraction Remedies. Volume I Summary Report. EPA/540/2-89/054.
- EPA. 1989b. Evaluation of Ground-Water Extraction Remedies. Volume II Case Studies 1-10. Interim Final. EPA/540/2-89/054b.
- EPA. 1989c. Evaluation of Ground-Water Extraction Remedies. Volume III General Site Data, Database Reports. EPA/540/2-89/054c.
- EPA. 1989d. Filtration of Ground Water Samples for Metals Analysis. EPA/600/J-89/284.
- EPA. 1989e. Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites. Draft. OSWER Directive No. 9283.1-2.

- EPA. 1989k. Statistical Analysis of Ground-Water Monitoring Data at RCRA Facilities. Interim Final guidance. EPA/530-SW-89-026.
- EPA. 1989l. Superfund Ground Water Issue Ground Water Sampling for Metals Analyses. EPA/540/4-89/001.
- EPA. 1989m. Laboratory Investigation Of Residual Liquid Organics From Spills, Leaks, And The Disposal Of Hazardous Wastes In Ground Water. EPA/600/6-94/004.
- EPA. 1989n. Transport and Fate of Contaminants in the Subsurface. EPA/625/4-89/019.
- EPA. 1985c. Practical Guide For Ground-Water Sampling. EPA/600/2-85/104.

Risk Assessment

- EPA. 1996a. ECO Update Series. Volume 1, 1-5; 2, 1-4; 3, 1 and 2.
- EPA. 1996b. Revised Policy on Performance of Risk Assessments During Remedial Investigation/Feasibility Studies (RI/FS) conducted by Potentially Responsible Parties. OSWER Directive No. 9835.15C.
- EPA. 1995a. Draft Proposed Guidelines for Ecological Risk Assessment. External Review Draft. EPA/630/R-95/002.
- EPA. 1995b. Risk Characterization Guidelines. Science Policy Council.
- EPA. 1995c. Draft Proposed Guidelines For Ecological Risk Assessment. EPA/630/R-95/002.
- EPA. 1993a. Endpoints and Indicators in Ecological Risk Assessments. EPA/600/A-93/284.
- EPA. 1992a. Guidelines for Exposure Assessment. 57 Federal Register 104.
- EPA. 1992b. Framework for Ecological Risk Assessment. EPA/630/R-92/001.
- EPA. 1991c. Risk Assessment Guidance for Superfund - Human Health Evaluation Manual, Part B: Development of Risk-based Preliminary Remediation Goals. Publication 9285.7-01B

- EPA. 1991d. Risk Assessment Guidance for Superfund - Human Health Evaluation Manual, Part C: Risk Evaluation of Remedial Alternatives. Publication 9285.7-01C.
- EPA. 1991e. Role of Baseline Risk Assessment in Superfund Remedy Selection Decisions. OSWER Directive No. 9355.0-30.
- EPA. 1990b. Guidance for Data Useability in Risk Assessment. EPA/540/G-90/008
- EPA. 1990e. Quantifying Effects in Ecological Site Assessments: Biological and Statistical Considerations. EPA/600/D-90/152.
- EPA. 1989h. Risk Assessment Guidance for Superfund - Volume I Human Health Evaluation Manual (Part A). EPA/540/1-89/002.
- EPA. 1989i. Risk Assessment Guidance for Superfund - Volume II Environmental Evaluation Manual. EPA/540/1-89/001.

Feasibility Study

- EPA. 1991f. Seminar Publication. Design and Construction of RCRA/CERCLA Final Covers. EPA/625/4-91/025.
- EPA. 1990c. Guidance on Remedial Actions for Superfund Sites with PCB Contamination. EPA/540/G-90/007.
- EPA. 1990g. Treatment Technologies. Government Institutes, Inc. Rockville, MD.
- EPA. 1989j. Seminar Publication. Requirements for Hazardous Waste Landfill Design, Construction, and Closure. EPA/625/4-89/022.
- EPA. 1987b. A Compendium of Technologies Used in the Treatment of Hazardous Wastes. EPA/625/8-87/014.
- EPA. 1986a. Handbook for Stabilization/Solidification of Hazardous Wastes. EPA/540/2-86/001.
- EPA. 1986b. Systems to Accelerate In Situ Stabilization of Waste Deposits. EPA/540/2-86/002.
- EPA. 1985d. Covers for Uncontrolled Hazardous Waste Sites. EPA/540/2-85/002.
- EPA. 1985e. Handbook Remedial Action at Waste Disposal Sites (Revised). EPA/625/6-85/006.

EPA. 1985c. Leachate Plume Management. EPA/540/2-85/004.

EPA. 1984b. Slurry Trench Construction for Pollution Migration Control. EPA/540/2-84-001.

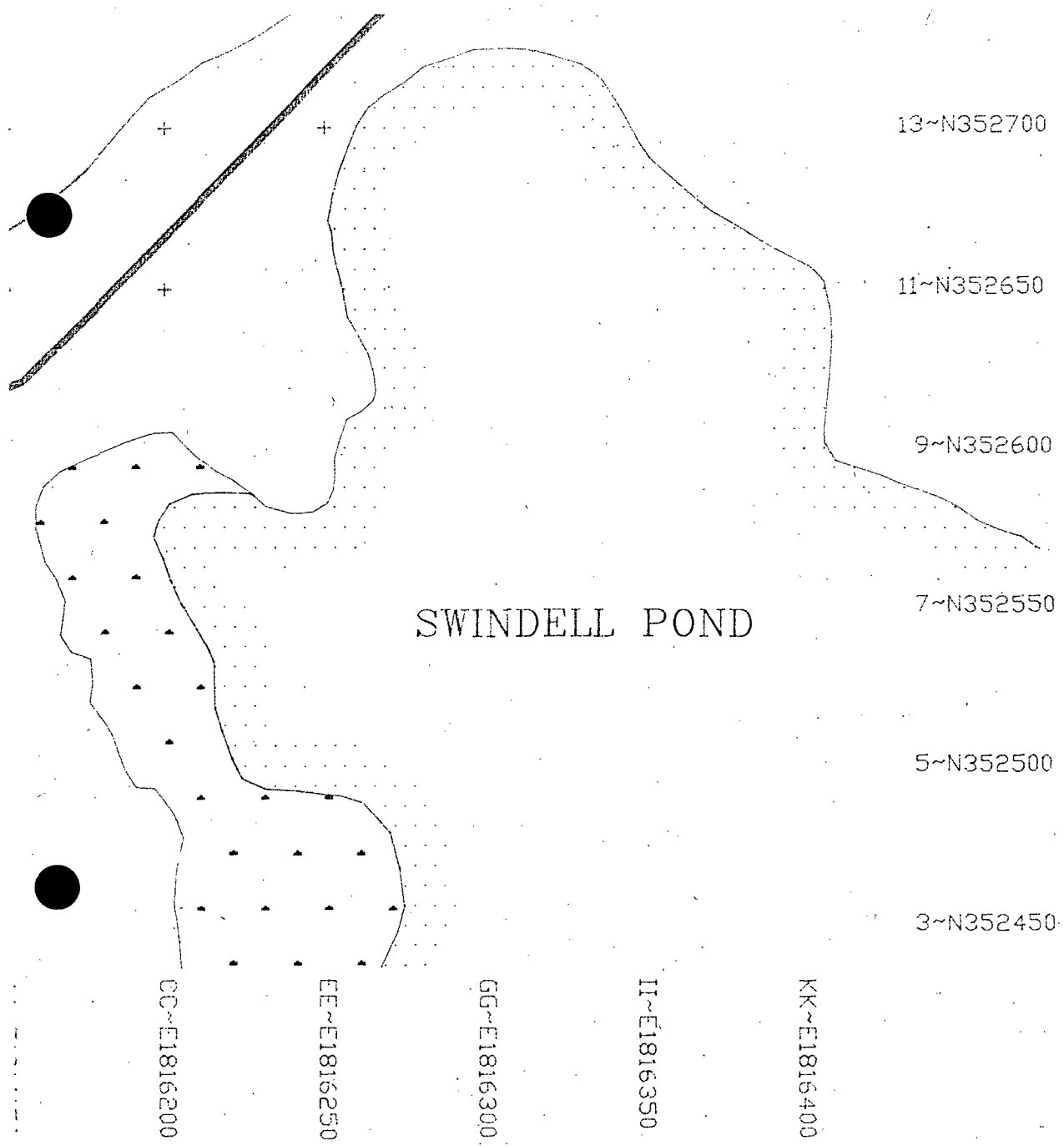
ROD

EPA. 1989f. Interim Guidance on Administrative Records for Selection of CERCLA Response Actions. OSWER Directive No. 9833.3A.

EPA. 1988e. Draft Guidance on Preparing Superfund Decision Documents. OSWER Directive No. 9355.3-02.

Region II Guidance

EPA. 1993d. Remedial Investigation/Feasibility Study Process. Emergency and Remedial Response Division.



LAGOON AREA FOOTPRINT BOUNDARY
 PREVIOUSLY EXCAVATED AREA BOUNDARY

EBASCO CONSTRUCTORS INC.
 P.O.BOX 562, BRIDGEPORT, NJ 08014-0562
 Bridgeport Rental and Oil Services Site
 LOGAN TOWNSHIP, NEW JERSEY
 CONTR. No. DACW41-88-B-0092 / SPEC. No. SF-1442
 LAGOON AREA
 FOOTPRINT MAP

PLT.	R.S.	CK'D.	APP'D.
DATE 09/10/96	DATE	DATE	DATE

APPENDIX F to the Consent Decree in the matter of
Rollins Environmental Services (NJ) Inc., et al.
v. United States, et al., No. 92-1253 (SSB) &
United States v. AlliedSignal Inc., et al.,
92-2726 (SSB) (D.N.J.).

ALLOWABLE COSTS

For purposes of this Consent Decree, only the costs listed below may be reported on the Settling Defendants' Monthly Cost Submissions.

I. Definitions

(1) As used in this Appendix, "Reasonable Attorney's Fees" shall mean the "lodestar" amount for attorney time as set forth by the United States Court of Appeals for the Third Circuit, calculated by multiplying the reasonable number of hours worked and documented by contemporaneous billing records (excluding, in the exercise of "billing judgment," hours that were excessive, inefficient, duplicative, or otherwise unnecessary) by the current reasonable hourly rate (as determined by market rates for comparable legal work in the District of New Jersey), plus reasonable costs and expenses incurred in order for the attorney to be able to render legal services and customarily billed separately to clients by local attorneys.

(2) Settling Defendants have represented that they have formed a technical committee consisting of certain Settling Defendants' employees who are senior managers with significant responsibility and experience in environmental remediation. As used in this Appendix, "Technical Committee Costs" shall mean costs, subject to sub-Paragraph 148.e and the limitations set forth below, incurred by the technical committee members in connection with the Phase 2 RI/FS, the Groundwater Work, or the Wetlands Work.

II. Allowable Costs

Category A. Allowable Phase 2 RI/FS Costs

Allowable Phase 2 RI/FS Costs shall mean costs in any sub-category listed below that are incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree. Allowable Phase 2 RI/FS Costs shall not include attorney's fees except as specifically listed below.

1. Costs of performing studies (including but not limited to treatability studies and/or pilot studies) or investigations in connection with the Phase 2 RI/FS;
2. Analytical, including quality assurance and quality control costs (including third-party data validation if required and approved by EPA), incurred in connection with the Phase 2 RI/FS;
3. Health and safety costs incurred in connection with the Phase 2 RI/FS;
4. Community relations costs incurred in connection with the Phase 2 RI/FS;
5. Accounting costs incurred in connection with the Phase 2 RI/FS;
6. Financial assurance costs incurred in connection with Paragraph 79(1) or (2);

7. Costs, including Reasonable Attorney's Fees, of obtaining institutional controls, access or other interests in real property in connection with the performance of the Phase 2 RI/FS;
8. Costs, including Reasonable Attorney's Fees, of obtaining federal, state, or local permits or approvals in connection with the performance of the Phase 2 RI/FS;
9. Contract administration and contract management costs incurred in connection with the Phase 2 RI/FS; and
10. Costs of quality assurance and quality control, including costs relating to the independent quality assurance team, incurred in connection with the Phase 2 RI/FS.
11. If and only if Settling Defendants suspend performance of the Phase 2 RI/FS pursuant to sub-Paragraph 11.b of the Consent Decree, the costs of demobilizing for such suspension, of maintaining equipment and/or personnel on-Site during such suspension, and of re-mobilizing for Settling Defendants' resumption of performance of the Phase 2 RI/FS after such suspension, as well as reasonable liquidated damages payable to Settling Defendants' contractor(s) that are directly attributable to such suspension (but not including any other consequential damages).
12. Any other costs of performing the Phase 2 RI/FS incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree, that are not otherwise expressly excluded by this Consent Decree, provided that no cost may fall within this sub-category unless such cost is supported by a written justification explaining why it was necessary in order to satisfy such requirements and an explanation of why the cost does not fall under any other sub-category of Allowable Phase 2 RI/FS Costs.
13. Technical Committee Costs incurred in connection with the Phase 2 RI/FS, subject to the limitations set forth below.

Category B. Allowable Groundwater Costs

Allowable Groundwater Costs shall mean costs in any sub-category listed below that are incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree. Allowable Groundwater Costs shall not include attorney's fees except as specifically listed below.

1. Design and construction costs incurred in connection with the performance of the Groundwater Work (including any lagoon closure activity required by the Phase 2 ROD), including construction support costs;
2. Design- and construction-related engineering costs incurred in connection with the performance of the Groundwater Work (including any lagoon closure activity required by the Phase 2 ROD), including engineering costs;
3. Security costs at the Site incurred in connection with the Groundwater Work;

4. Analytical, including quality assurance and quality control costs (including third-party data validation if required and approved by EPA), incurred in connection with the Groundwater Work;
5. Health and safety costs incurred in connection with the Groundwater Work;
6. Community relations costs incurred in connection with the Groundwater Work;
7. Accounting costs incurred in connection with the Groundwater Work;
8. Financial assurance costs incurred pursuant to Paragraph 83(1) or (2);
9. Costs, including Reasonable Attorney's Fees, of obtaining institutional controls, access or other interests in real property in connection with the performance of the Groundwater Work;
10. Costs, including Reasonable Attorney's Fees, of obtaining federal, state, or local permits or approvals in connection with the performance of the Groundwater Work;
11. Contract administration and contract management costs incurred in connection with the Groundwater Work;
12. Costs of operating and maintaining the Groundwater Work (including any lagoon closure activity required by the Phase 2 ROD);
13. Costs of quality assurance and quality control, including costs relating to the independent quality assurance team, incurred in connection with the Groundwater Work;
14. Costs of performing any studies or investigations in connection with the Groundwater Work, including costs incurred pursuant to Paragraph 30 (Remedy Review).
15. If and only if Settling Defendants suspend performance of the Groundwater Work pursuant to sub-Paragraph 19.b of the Consent Decree, the costs of demobilizing for such suspension, of maintaining equipment and/or personnel on-Site during such suspension, and of re-mobilizing for Settling Defendants' resumption of performance of the Groundwater Work after such suspension, as well as reasonable liquidated damages payable to Settling Defendants' contractor(s) that are directly attributable to such suspension (but not including any other consequential damages).
16. Any other costs of performing the Groundwater Work incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree, that are not otherwise expressly excluded by this Consent Decree, provided that no cost may fall within this sub-category unless such cost is supported by a written justification explaining why it was necessary in order to satisfy such requirements and an explanation of why the cost does not fall under any other sub-category of Allowable Groundwater Costs.
17. Technical Committee Costs incurred in connection with the Groundwater Work, subject to the limitations set forth below.

Category C. Allowable Wetlands Costs

Allowable Wetlands Costs shall mean costs in any sub-category listed below that are incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree. Allowable Wetlands Costs shall not include attorney's fees except as specifically listed below.

1. Design and construction costs incurred in connection with the performance of the Wetlands Work, including construction support costs;
2. Design- and construction-related engineering costs incurred in connection with the performance of the Wetlands Work, including engineering costs;
3. Security costs at the Site incurred in connection with the Wetlands Work;
4. Analytical, including quality assurance and quality control costs (including third-party data validation if required and approved by EPA), incurred in connection with the Wetlands Work;
5. Health and safety costs incurred in connection with the Wetlands Work;
6. Community relations costs incurred in connection with the Wetlands Work;
7. Accounting costs incurred in connection with the Wetlands Work;
8. Costs, including Reasonable Attorney's Fees, of obtaining institutional controls, access or other interests in real property in connection with the performance of the Wetlands Work;
9. Costs, including Reasonable Attorney's Fees, of obtaining federal, state, or local permits or approvals in connection with the performance of the Wetlands Work;
10. Contract administration and contract management costs incurred in connection with the Wetlands Work;
11. Costs of operating and maintaining the Wetlands Work;
12. Costs of quality assurance and quality control, including costs relating to the independent quality assurance team, incurred in connection with the Wetlands Work;
13. Costs of performing any studies or investigations in connection with the Wetlands Work, including costs incurred pursuant to Paragraph 51 (Remedy Review).
14. If and only if Settling Defendants suspend performance of the Wetlands Work pursuant to sub-Paragraph 41.b of the Consent Decree, the costs of demobilizing for such suspension, of maintaining equipment and/or personnel on-Site during such suspension, and of re-mobilizing for Settling Defendants' resumption of performance of the Wetlands Work after such suspension, as well as reasonable liquidated damages payable to Settling Defendants' contractor(s) that are directly attributable to such suspension (but not including any other consequential damages).

15. Any other costs of performing the Wetlands Work incurred by the Settling Defendants in order to satisfy the requirements of this Consent Decree or a statement of work or approved work plan pursuant to this Consent Decree, that are not otherwise expressly excluded by this Consent Decree, provided that no cost may fall within this sub-category unless such cost is supported by a written justification explaining why it was necessary in order to satisfy such requirements and an explanation of why the cost does not fall under any other sub-category of Allowable Wetlands Costs.
16. Technical Committee Costs incurred in connection with the Wetlands Work, subject to the limitations set forth below.

III. Limitations on Technical Committee Costs

Technical Committee Costs reported on Monthly Cost Submissions shall be subject to the following limitations:

1. Technical Committee Costs incurred prior to the effective date of this Consent Decree shall not be reported on any Monthly Cost Submission and shall not be considered Allowable Costs.
2. The rate for time spent on technical committee activities by individual members of the technical committee shall be one hundred and twenty-five dollars (\$125) per hour. Travel and incidental expenses shall be billed at no more than actual cost.
3. Technical Committee Costs relating to the Phase 2 RI/FS, the Groundwater Remedial Design, and the Wetlands Remedial Design combined shall not exceed a cumulative aggregate total of \$250,000.
4. Technical Committee Costs relating to the Groundwater Remedial Action, the Groundwater O & M, the Wetlands Remedial Action, and the Wetlands O & M combined shall not exceed a cumulative aggregate total of \$1,000,000.
5. Technical Committee Costs relating to the Groundwater Remedial Action, the Groundwater O & M, the Wetlands Remedial Action, and the Wetlands O & M combined shall not exceed an annual aggregate total, pro-rated as appropriate, of:
 - a. \$50,000 per calendar year, prior to EPA's issuance of both Certification of Completion of the Groundwater Remedial Action and Certification of Completion of the Wetlands Remedial Action;
 - b. \$25,000 per calendar year, after EPA's issuance of both Certification of Completion of the Groundwater Remedial Action and Certification of Completion of the Wetlands Remedial Action, except as otherwise provided in the following subparagraph;
 - c. \$50,000 per calendar year, after EPA's issuance of both Certification of Completion of the Groundwater Remedial Action and Certification of Completion of the Wetlands Remedial Action, if in such year Settling Defendants are performing

work, other than operation and maintenance, required by (i) a modification of the SOW pursuant to Paragraph 27; (ii) Settling Defendants' obligation to perform further groundwater response actions pursuant to Paragraph 33; or (iii) Settling Defendants' obligation to perform additional groundwater response actions pursuant to Paragraph 35.

6. Each Monthly Cost Submission on which any Technical Committee Costs are initially reported shall certify that such costs do not include Technical Committee Costs incurred for participation in any dispute resolution procedure pursuant to Paragraphs 12, 17 or 39 or Section XXI (Dispute Resolution) of this Consent Decree.

CONTRACTING AND COST DOCUMENTATION

I. CONTRACTING

For purposes of this Consent Decree, Settling Defendants shall adhere to the following requirements for the procurement of contracts for the performance of the Phase 2 RI/FS, the Groundwater Work, or the Wetlands Work. Except where defined in this Appendix or the Consent Decree, the terms below shall have their ordinary commercial meaning.

A. General Requirements for All Contracts.

1. Procurement Objective: Settling Defendants' primary objective is to procure products and services for performance of the Phase 2 RI/FS, the Groundwater Work, and the Wetlands Work. The greatest considerations in performing this responsibility is to maximize the value (considering price, quality, delivery and service) of every procurement and to support scheduled performance under the terms of this Consent Decree.

2. Procurement Solicitation: Settling Defendants will establish and maintain solicitation mailing lists of qualified potential sources to assure access to adequate sources of expected products and services. The following information will be maintained on file for each expected product and service:

- Name and address of business concern
- Type of organization, e.g., corporation, partnership
- Affiliates of organization (with separate identification of any affiliation(s) with one or more Settling Defendants)
- Type of business, e.g., service establishment, construction concern
- Evidence of financial capability and past performance on similar contracts

3. Procurement Planning: The extent of analysis performed for a given procurement must be commensurate with the price and criticality of the product or service to be purchased. All procurements shall be consistent with Paragraph 2 of this Consent Decree. If competitive procedures are anticipated to be used for awards anticipated to exceed \$500,000, a written planning document will identify each evaluation factor and the numeric weights to be applied to each factor. The factors will be tailored to each award but must include quality, price, and past performance to the extent information about past performance is available.

4. Competitive Bid Requirements:

a. Procurements anticipated to be less than or equal to \$25,000 may be placed with or without use of competitive bid procedures at Settling Defendants' discretion. Settling Defendants shall not segment work in order to avoid competitive bid requirements.

b. Procurements anticipated to be greater than \$25,000 shall be placed using competitive bid procedures unless (a) only one source can meet the requirement or (b) considerations of administrative costs or urgency of the procurement, in light of price and criticality, justify the use of single-source or other non-competitive procedures. Written justification for any non-competitive

award over \$25,000, including the basis for determining that the price is fair and reasonable, will be maintained in the procurement file.

c. If competitive bid procedures are used, the solicitation shall contain all information necessary to enable prospective offerors to prepare proposals properly, including without limitation a statement of the work to be performed under the award, the factors (and their relative importance) that will be considered in making the award, and any pertinent Statement of Work or Work Plan issued or approved by EPA under this Consent Decree. All prospective offerors shall be provided the same solicitation. The solicitation, at a minimum, will request submission of technical proposals and costs or price proposals.

d. If competitive bid procedures have been utilized for procurement, technical proposals will be ranked. Offerors with unacceptable technical proposals will not be considered for award. Costs or price proposals will also be ranked. Technical and costs or price proposals will be evaluated to assure that costs other than Allowable Costs are not included. Award will be made to the offeror whose proposal offers the best value in light of quality, price, expected performance, and other relevant considerations. Documentation of the ranking of each offeror and the ultimate basis of award will be maintained in the procurement file.

5. Modifications to Existing Contracts: Any contemplated modification of an existing contract that would increase the total value of the contract by 25% or more shall be subject to all requirements of this Part I of Appendix H, including provisions relating to contract claims if the contemplated modification results from a contract claim.

6. Subcontracts: Settling Defendants shall require that all subcontracts include language in conformance with the prime contract requirements.

B. Additional Requirements for Cost Reimbursable Type and Time and Materials Contracts.

1. Cost Analyses: For contemplated cost reimbursable type and time and materials contracts, cost realism analyses of submitted costs proposals will be performed to assure that the overall costs proposed by an offeror are realistic for the work to be performed. The costs proposal will also be analyzed to assure that costs other than Allowable Costs are not included.

2. Indirect Costs: To the extent that cost reimbursable type contracts call for payment of the contractor's indirect costs (including but not limited to overhead, and general and administrative costs), indirect costs shall be allocated on a basis that reflects indirect cost groupings that consider the reasons for incurring such costs. Each indirect cost grouping shall be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives.

3. Limitation on Use of Cost Reimbursable Type Contracts: No procurement for either the Groundwater Remedial Action or the Wetlands Remedial Action that is anticipated to exceed \$1,000,000 shall be awarded as a cost reimbursable type contract.

C. Additional Requirements for Firm Fixed Price and Lump Sum Contracts.

1. Milestones: All firm fixed price and lump sum contracts with progress payment provisions shall include a schedule of values, or milestones, against which invoices are to be applied. Settling

Defendants shall review proposed schedules of values to assure against unbalance bidding or front-end loading of the contract.

2. Option to Seek Prior Approval by EPA of Allowable Costs for Firm Fixed Price and Lump Sum Contracts:

a. No later than 120 days prior to the expected initiation of performance under a firm fixed price or lump sum contract or subcontract, Settling Defendants may seek prior approval by EPA of the allowability of costs for such contract or subcontract by submitting a request (hereinafter, "Request") pursuant to the procedures set forth below.

b. As part of a Request, Settling Defendants shall submit to EPA, with copies to NJDEP and Settling Federal Agencies, at least the following: (1) the solicitation planning document prepared pursuant to provision I.A.4 of this Appendix H, above; (2) the bid solicitation, if any, that was provided to potential offerors; (3) the proposal, including technical and price proposals, submitted by the offeror to which Settling Defendants intend to award the firm fixed price or lump sum contract; and (4) a statement that Settling Defendants or their agent have reviewed such proposal and determined that the costs of all work to be performed under the contract are included in the list of Allowable Costs (Appendix G) and an identification of the pertinent Category(ies) and sub-Category(ies) of Allowable Costs.

c. After receiving a Request, EPA will consider the Request and will approve the Request if EPA determines that the costs of all work to be performed under the contract are included in the list of Allowable Costs (Appendix G). If EPA determines that the costs of any work to be performed under the contract are not included in the list of Allowable Costs (Appendix G), EPA will either disapprove the Request, or conditionally approve the Request subject to specified modifications in the proposed procurement to exclude such work. EPA shall notify Settling Defendants in writing of EPA's approval, disapproval, or conditional approval subject to specified modifications, and of the reasons for EPA's decision. During EPA's consideration, EPA may ask Settling Defendants to provide additional information relating to the Request.

d. If EPA has not notified Settling Defendants of its decision on a Request within 45 days after EPA received the Request, the Request shall be deemed approved.

e. After receiving notice of EPA's action on a Request, Settling Defendants may ask EPA to provide additional explanation for EPA's action. If a Request is approved or deemed approved, Settling Defendants may proceed with the procurement as described in the Request. If a Request is disapproved, Settling Defendants may submit a different Request relating to the same procurement or may withdraw the Request and proceed with the procurement without prior approval. If a Request is conditionally approved subject to specific modifications, Settling Defendants may make the proposed procurement with the specific modifications, or may submit a different Request relating to the same procurement, or may withdraw the Request and proceed with the procurement without prior approval.

f. Denial of a Request, in whole or in part, shall not be considered a Force Majeure event pursuant to Section XX (Force Majeure) of the Consent Decree.

g. Where prior approval of the allowability of costs for any firm fixed price or lump sum contract has been sought, and the Request has been approved or deemed approved, costs incurred

by Settling Defendants pursuant to such contract and reported on any Monthly Cost Submission shall not be subject to disallowance pursuant to sub-Paragraphs 64.f(3) or 150.d.

D. Contract Claims.

1. Definition: For purposes of this Appendix H, a "contract claim" is (a) any request for a material modification to the terms of an existing contract that is initiated by the contractor, or (b) any claim of breach of contract initiated by the contractor, or (c) any demand by a contractor for additional payment based on changed circumstances or increased amount or cost of the work performed under the contract, or (d) any claim by any entity that a contract between that entity and Settling Defendants is implied in law or in fact.
2. Defense: Settling Defendants shall defend against contract claims in good faith and may voluntarily settle or resolve such claims.
3. Settlement: Settling Defendants may seek EPA approval of a proposed settlement or voluntary resolution of a contract claim by providing at least the following in writing to EPA, with copies to NJDEP and Settling Federal Agencies: (a) a statement of the claim (including a copy of any demand or complaint served by the contractor); (b) a detailed description of the proposed settlement; and (c) an explanation of why the proposed settlement is reasonable. If EPA gives written advance approval to the proposed settlement, then any payments, made by Settling Defendants to the contractor under the terms of the settlement, shall not be subject to disallowance pursuant to sub-Paragraph 64.f(4). Settling Defendants are not required to seek or to obtain EPA approval before settling a contract claim. If Settling Defendants settle a contract claim without EPA's prior approval, and such settlement is reasonable, then payments made by Settling Defendants to the contractor under the terms of the settlement shall not be subject to disallowance pursuant to sub-Paragraph 64.f(4). If Settling Defendants settle a contract claim without EPA's prior approval, and such settlement is in any respect unreasonable, then payments made by Settling Defendants to the contractor under the terms of the settlement may be disallowed, pursuant to sub-Paragraph 64.f(4), to the extent unreasonable.
4. Judicial or Other Binding Resolution: If a contract claim is not settled or voluntarily resolved, but instead is determined by a binding decision of a court or arbitrator or similar neutral decision-maker after good-faith defense by Settling Defendants, then any payments, made by Settling Defendants to the contractor pursuant to the determination of the claim, shall not be subject to disallowance pursuant to sub-Paragraph 64.f(4).

II. DOCUMENTATION FOR MONTHLY COST SUBMISSIONS

The following documents shall be submitted in satisfaction of the requirements of sub-Paragraph 64.b(3) of the Consent Decree. Except where defined in this Appendix or the Consent Decree, the terms below shall have their ordinary commercial meaning.

Category A. Cost Reimbursable Type Contracts.

For costs incurred by Settling Defendants pursuant to cost reimbursable type contracts, the following documents shall be submitted:

1. The invoice submitted by the contractor to Settling Defendants, which shall include:
 - a. A statement of the dates on which the services were performed (the "billing period");
 - b. A description of the work performed during the billing period, cross-referenced to the applicable EPA-approved Work Plan or Statement of Work or to a contract document permitting such cross-reference;
 - c. A statement of labor hours, labor costs, and other direct costs incurred, by cost element, for the billing period and from the inception of the contract to date;
 - d. A listing of all labor hours incurred during the billing period by person, by day or week;
 - e. A listing of all invoices for materials, services, and subcontracts incurred and paid by the contractor during the billing period;
 - f. A listing of all equipment costs incurred during the billing period, including type of equipment, time and rate;
 - g. Identification of all indirect costs billed (base and rate) during the billing period;
 - h. A listing of all credits, rebates, and allowances posted during the billing period; and
 - i. An estimate of the costs to complete the project.
2. Documentation supporting the invoice submitted by the contractor to Settling Defendants:
 - a. Copies of time records, or certified payrolls, supporting all labor hours and costs incurred during the billing period;
 - b. Copies of invoices for materials, services, and sub-contracts exceeding \$250 that are reflected on the contractor's invoice;
 - c. Evidence that payments have been made for materials, services, and sub-contracts exceeding \$250 that are reflected on the contractor's invoice;
 - d. If not previously provided to the United States and the State, copies of the contract and any change orders or other contract documents related to the invoice submitted by the contractor to Settling Defendants; and
 - e. If the invoice is related to a contract claim, a copy of the claim and any supporting material provided by the contractor to Settling Defendants, if not previously provided to the United States and the State.
3. Evidence that the invoice submitted by the contractor to Settling Defendants was paid, either by a copy of the check or confirmation of an electronic transfer of funds.
4. If the invoice submitted by the contractor to Settling Defendants was paid in any amount other than the amount set forth in the invoice, Settling Defendants shall state the basis for the decision to pay the different amount.
5. If the payment by Settling Defendants is for an invoice related to a contract claim, Settling Defendants shall state the basis for payment of the claim.

Category B. Time and Materials Contracts.

For costs incurred by Settling Defendants pursuant to time and materials contracts, the following documents shall be submitted:

1. The invoice submitted by the contractor to Settling Defendants, which shall include:
 - a. A statement of the dates on which the services were performed (the "billing period");

- b. A description of the work performed during the billing period, cross-referenced to the applicable EPA-approved Work Plan or Statement of Work or to a contract document permitting such cross-reference;
 - c. A statement of labor hours, contract hourly labor rates, and amounts by labor category for the billing period and from the inception of the contract to date;
 - d. A listing of all labor hours incurred during the billing period by person, by day or week;
 - e. A statement of direct material costs and material handling rates and costs incurred during the billing period;
 - f. A listing of all invoices for materials, services, and subcontracts incurred and paid by the contractor during the billing period;
 - g. A listing of all equipment costs incurred during the billing period, including type of equipment, time and rate;
 - h. A listing of all credits, rebates, and allowances posted during the billing period; and
 - i. An estimate of the costs to complete the project.
2. Documentation supporting the invoice submitted by the contractor to Settling Defendants:
 - a. Copies of time records, or certified payrolls, supporting all labor hours and rates incurred during the billing period;
 - b. Copies of invoices for materials, services, and sub-contracts exceeding \$250 that are reflected on the contractor's invoice;
 - c. Evidence that payments have been made for materials, services, and sub-contracts exceeding \$250 that are reflected on the contractor's invoice;
 - d. If not previously provided to the United States and the State, copies of the contract and any change orders or other contract documents related to the invoice submitted by the contractor to Settling Defendants; and
 - e. If the invoice is related to a contract claim, a copy of the claim and any supporting material provided by the contractor to Settling Defendants, if not previously provided to the United States and the State.
 3. Evidence that the invoice submitted by the contractor to Settling Defendants was paid, either by a copy of the check or confirmation of an electronic transfer of funds.
 4. If the invoice submitted by the contractor to Settling Defendants was paid in any amount other than the amount set forth in the invoice, Settling Defendants shall state the basis for the decision to pay the different amount.
 5. If the payment by Settling Defendants is for an invoice related to a contract claim, Settling Defendants shall state the basis for payment of the claim.

Category C. Firm Fixed Price and Lump Sum Contracts.

For costs incurred by Settling Defendants pursuant to firm fixed price and lump sum contracts, the following documents shall be submitted:

1. The invoice submitted by the contractor to Settling Defendants, which shall include:
 - a. A statement of the dates on which the services were performed (the "billing period");
 - b. A description of the work performed during the billing period, cross-referenced to the EPA-approved Work Plan or Statement of Work or contract document permitting such

cross-reference, of how, under the contract, the performance of this work demonstrates attainment of a milestone or otherwise entitles the contractor to payment; and

- c. A listing of all credits, rebates, and allowances posted during the billing period.
2. Documentation supporting the invoice submitted by the contractor to Settling Defendants:
 - a. Evidence that payments have been made for materials, services, and sub-contracts during the billing period.
 - b. If not previously provided to the United States and the State, copies of the contract and any change orders or other contract documents related to the invoice submitted by the contractor to Settling Defendants; and
 - c. If the invoice is related to a contract claim, a copy of the claim and any supporting material provided by the contractor to Settling Defendants.
3. Evidence that the invoice submitted by the contractor to Settling Defendants was paid, either by a copy of the check or confirmation of an electronic transfer of funds.
4. If the invoice submitted by the contractor to Settling Defendants was paid in any amount other than the amount set forth in the invoice, Settling Defendants shall state the basis for the decision to pay a different amount.
5. If the payment by Settling Defendants is for an invoice related to a contract claim, Settling Defendants shall state the basis for payment of the claim.

Category D. Unit Price Contracts.

For costs incurred by Settling Defendants pursuant to unit price contracts, the following documents shall be submitted:

1. The invoice submitted by the contractor to Settling Defendants, which shall include:
 - a. A statement of the dates on which the services were performed (the "billing period");
 - b. A description of the work performed during the billing period, cross-referenced to the applicable EPA-approved Work Plan or Statement of Work or to a contract document permitting such cross-reference;
 - c. Quantities supplied, and prices, during the billing period;
 - d. A listing of all credits and discounts, rebates, and allowances posted during the billing period; and
 - e. An estimate of prices and quantities to complete the project.
2. Documentation supporting the invoice submitted by the contractor to Settling Defendants:
 - a. Evidence that payments have been made for materials, services, and sub-contracts during the billing period.
 - b. If not previously provided to the United States and the State, copies of the contract and any change orders or other contract documents related to the invoice submitted by the contractor to Settling Defendants; and
 - c. If the invoice is related to a contract claim, a copy of the claim and any supporting material provided by the contractor to Settling Defendants.

3. Evidence that the invoice submitted by the contractor to Settling Defendants was paid, either by a copy of the check or confirmation of an electronic transfer of funds.
4. If the invoice submitted by the contractor to Settling Defendants was paid in any amount other than the amount set forth in the invoice, Settling Defendants shall state the basis for the decision to pay a different amount.
5. If the payment by Settling Defendants is for an invoice related to a contract claim, Settling Defendants shall state the basis for payment of the claim.